
**E-86-16 Lawyer serving as a board member of
an insurer and insurance fund while
lawyer or lawyer's firm represents
persons against insurer and fund:
Conflict of interest**

Facts

A lawyer serves on the boards of directors of an insurer and insurance fund. At the same time, the lawyer and/or members of the lawyer's law firm frequently represent persons against the insurer and insurance fund. Further, the lawyer/director, as a director on both boards, possesses or has access to detailed information relating to the insurer and funds' handling of claims such as those his or her law firm brings.

Question

May a lawyer's law firm or any partner, shareholder or associate thereof represent interests adverse to an insurance company and insurance fund for which the lawyer serves as a member of the boards of directors?

Opinion

No. *See, e.g.*, SCR 20.24(1), SCR 20.23(1) and SCR 20.38(1); E-54-2 [57 Wis. Bar Bull. 40 (June 1984)], E-76-2 [57 Wis. Bar Bull. 55 (June 1984)] and E-77-11 [57 Wis. Bar Bull. 59 (June 1984)]; and *American Dredging Co. v. City of Philadelphia*, 480 Pa. 177, 389 A.2d 568 (1978) (regarding disqualification of attorney/city agency board member's law firm in suit against the city).

Although this committee has given qualified approval to the practice of a lawyer serving simultaneously as corporate director and counsel, we have never approved a situation involving a corporate lawyer/director or his or her law firm representing third party interests adverse to the corporation. *See* E-84-12 [57 Wis. Bar Bull. 31 (Sept. 1984)]. *See also* E-84-9 [57 Wis. Bar Bull. 87 (July 1984)]. The lawyer's fiduciary obligations as a director would otherwise be in direct conflict with those he or she has to law firm clients with interests adverse

to—in this case—the insurance company and fund. *See generally* Panel Discussion, “Lawyers as Directors,” 30 Bus. Lawyer 41 (1975). *See also* Wisconsin Attorney General’s Opinion OAG 33-86.