

Law Firm Internal Investigations and the Attorney–Client Privilege

Maintaining Confidentiality and Avoiding Conflicts of Interest

A Live 90-Minute Teleconference Program with Interactive Q&A

Thursday, June 12, 2008

**1:00 p.m. Eastern Time / 12:00 p.m. Central Time /
11:00 a.m. Mountain Time / 10:00 a.m. Pacific Time**

Sponsored by the Legal Publishing Group of Strafford Publications

There have been an increasing number of lawsuits being filed against law firms. Law firms often have the same response that corporations do — investigate the allegations by conducting an internal investigation. While a law firm may use the attorney–client privilege like corporations, the firm faces some privilege issues that corporations do not.

No firm wants to conduct an internal investigation. However, every firm needs to be prepared for the possibility and have in place the means to protect the confidentiality of such investigations.

This teleconference will examine the attorney–client privilege in the context of law firm internal investigations, including protections available to the firm and challenges an aggrieved client will likely raise to discover the results of the firm’s investigation, ethical issues the firm must consider, and best practices for maintaining the privilege.

- I. Attorney–client privilege
 - A. Scope of privilege
 - B. Intra-firm dissemination of privileged information
 - C. Discovery
 - D. Current client or fiduciary exception
 - E. Court and state bar treatment

- II. Ethical considerations
 - A. Conflicts of interest
 - B. Fiduciary duty to client

- III. Best practices to maintain confidentiality
 - A. Appoint regular general counsel or ethics counsel
 - B. Investigate or act on professional liability or responsibility issues when they arise
 - C. Firm counsel treat investigation as client matter
 - D. Firm counsel must safeguard attorney–client privilege and work product doctrine
 - E. No discussion of investigation with aggrieved client
 - F. Consider withdrawal from client representation (at least on particular matter)
 - G. If continued representation, seek waiver of potential conflict of interest

The speakers will use the following hypothetical in their discussion.

X firm has just begun representing Widget Co. Widget has been negotiating a sale of one of its subsidiaries, SpinOff, to a foreign buyer and has now closed on the matter, using X firm throughout the due diligence, negotiation and drafting of the agreements. An associate calls up the Managing Partner of X firm and asks for a meeting. At the meeting, the associate reports that in connection with the sale, Widget made representations about the absence of environmental issues at the subsidiary's manufacturing plants, and that the transactional associates think that these representations were not true and that the principal partner handling the matter for Widget, Scud, knew that it was untrue. The managing partner calls in the firm general counsel and asks her what she knows about the SpinOff sale. The GC says that she reviewed some of the litigation files of SpinOff in connection with doing some of the due diligence and consulted with some of the partners on the deal team. The Managing Partner describes the meeting with the worried associate, and asks the GC to look into the allegations. The GC asks to meet with Scud one-on-one. She asks him about the allegations and Scud admits that it is a close question but he asked the client three times whether there were environmental issues and he received the same answer each time -- "no issues".

The GC prepares a written description of the entire incident and delivers it to the Managing Partner the next day. The Managing Partner concludes that the firm should drop the matter. Several weeks later, an environmental problem emerges at SpinOff. The foreign buyer is furious.

TELECONFERENCE REGISTRATION FEE

(covers an unlimited number of staff at your location)

By May 16: \$247

After May 16: \$297

CD RECORDING

(includes complete program documentation)

By May 16: \$247

After May 16: \$297

\$75 for teleconference registrants

CONTINUING LEGAL EDUCATION

CLE credit available for an additional \$65 per person.

CLE is not available for Del., Kan., Ind., Ohio, Pa., P.R., S.C.
and for NY attorneys admitted within the last 2 years.

Three easy ways to register or for more information

EMAIL: custserv@straffordpub.com

TOLL FREE: 800-926-7926, ext. 10

WEB: www.straffordpub.com/products/tlsnla