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Conflict of Interest in the Legal Profession

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Conflicts of Interest in the Legal Profession

Paul M. Perell

Toronto: Butterworths Canada Ltd., 1995, 132 pp.

Reviewed by Doug Downey[†]

Law practitioners, students and the general public all realize lawyers occasionally find themselves in conflicts of interest. How a lawyer deals with such a situation reflects on the legal profession. Paul Perell has written a good reference book outlining the different types of conflicts that may arise and how to appropriately deal with such conflicts.

Conflicts of Interest in the Legal Profession is a truly national reference book. While it would have been easier for the author to concentrate on one province, as each province has its own uniquely constituted Bar Society, Perell has taken on the challenge of addressing differences between the provinces and outlining the significance of any unique approaches. The author also draws on the experience of the American Bar Society to illustrate the potential for alternate responses to questions of professional ethics. However, Perell has avoided suggesting where one response may be better than another.

As a reference book, *Conflicts of Interest in the Legal Profession* does not pontificate on the direction of, or potential changes to, the law. Readers are assumed to be intelligent and able to make individual decisions on issues of legal ethics. All that the reader is given are the facts. The use of hypothetical situations is avoided when there is a real case to illustrate a point.

Perell recognizes lawyers are not alone in finding themselves in law related conflicts of interest. Problems arising with legal staff members are also addressed. When paralegals or secretaries transfer jobs or contract services for more than one law firm, real conflicts of interest can arise. However, this text is intended to be used by

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practitioners; it is not likely to be of interest to a newly hired secretary.

Concepts are categorized into twenty classes of conflicts. Conveniently, the classes are summarized in Appendix A for quick reference. If the reader is interested (or involved) in a particular class of conflict, further sources are extensively cited. If Perell intended *Conflicts of Interest in the Legal Profession* to be a primary reference text, he succeeded.

The twenty classes are discussed in nine chapters. The chapter titles are self-explanatory: Disputes and Confidential Information; Disputes and Divided Loyalty; The Liability Insurer and Insured Class; Conflicts for Corporate Counsel and the Blowing the Whistle Class; The Lawyer as Witness; Acting for Opposing Sides; Doing Business with a Client; Gifts from Clients; and Motions to Disqualify.

Familial matters and sexual relations with clients are not extensively covered. However, if the reader understands the general rules governing conflicts, decisions about other questionable conduct will be appropriately guided.

The text is easily understood, clearly written and does not get caught up in legalese. Nevertheless, *Conflicts of Interest in the Legal Profession* is a legal text and any praise should be tempered by the understanding that this is not a book that would be read for pleasure.

Perell does not waste space being overly repetitive or obvious; a certain level of knowledge is assumed. Concise and compact, it is an ideal size to carry in a briefcase. Armed with this text a lawyer will be well equipped to navigate through a variety of complex ethical problems. Furthermore, the tone of Perell's text encourages wise decisions based on all available information. It is not a how-to book on getting away with things.

I would recommend that *Conflicts of Interest in the Legal Profession* be considered by law schools for their professional responsibility/ethics classes. It is the type of text that will inevitably be useful in one's practice, for peace of mind when making a decision if nothing else.