



# Dear Ethics Lawyer™

**The Legal Ethics Project.** Supporting professionalism with information.

**Q:** Dear Ethics Lawyer,

I represent a good friend who has built a very successful business. He offered me an opportunity to join with him to start a different new business venture together. I met with him and told him that in negotiating or putting together the terms of the venture with him I would not be acting as his counsel and that he should consider seeking independent counsel. The deal we put together is fair and reasonable to my friend, who also told me that he consents to my involvement in the transaction while continuing to represent him in other legal matters. I went ahead with the transaction. Have I done anything unethical?

**A:** You have generally focused on the correct matters concerning business transactions with clients under Model Rule 1.8(a): (1) the transaction and terms must be fair and reasonable to the client; (2) the client must be advised of the desirability and opportunity to seek independent counsel; and (3) the client must give informed consent to the lawyer's role in the transaction and its essential terms. But it is not sufficient that these things merely occur or exist—all three of these requirements must be confirmed in writing in a manner that can reasonably be understood by the client. Rule 1.8(a)(1)-(3).

*The Ethics Lawyer*

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## About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 125 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to [mark.hinderks@stinson.com](mailto:mark.hinderks@stinson.com).

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.