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ELDER LAW MINUTE

Recently, I was approached by a financial advisor/insurance salesman about hosting a Sunday morning radio show on WGST. The arrangement was that we would each pay for half an hour of time. I would be on the air each week being asked questions about Elder Law. He would be on occasionally discussing financial products. His staff would follow up on leads generated by the show referring the legal questions to me and handling the financial questions himself. Any chance that I had to refer him business, I was expected to do so.

The Georgia Rules of Professional Conduct provide that *A lawyer shall not represent or continue to represent a client if there is a significant risk that the lawyer's own interests ... will materially and adversely affect the representation of the client.* Rule 1.7(a). The comments regarding this rule state that *Loyalty to a client is also impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because the lawyer's other competing responsibilities or interests. The conflict in effect forecloses alternatives that would otherwise be available to the client.*

Had I agreed to the proposed arrangement, I would have been obligated to refer all of my clients to this one financial adviser. Moreover, I would have been pressured to recommend the purchase of Medicaid compliant annuities when the clients had other viable options.

Moreover, Rule 7.3(c) provides that *A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure the lawyer's employment by a client, or as a reward for having made a recommendation resulting in the lawyer's employment by a client.*

Entering into a relationship with a financial advisor where there is an expectation of referrals back and forth appears to violate this rule as well. It is vitally important that an attorney maintains his independence so that he can offer unbiased advice to his clients.

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