

LETTER 3—JOINT REPRESENTATION ON PROPOSED ESTATE PLANS

Dear Bob and Mary:

This letter confirms that you have asked me to prepare your wills. It also sets forth potential conflicts of interest between the two of you regarding your estate plans.

Oregon's Disciplinary Rules for attorneys limits or prohibit one attorney or law firm from representing two clients when their interests are in conflict. You have told me that you have been and are happily married and that you wish to have mutual wills and the same estate plans. Based upon your statements to me, I do not believe that the type of direct conflict that would keep me from representing both of you is present. Nonetheless, we discussed several possible conflicts when we met. This letter confirms our discussion and asks for your consent to my representation of both of you in preparing your wills.

In particular, we discussed the following possible conflicts relating to your estates.

1. You have told me that both of you have been previously married and have separate families, with whom you are on good terms. It would not be unusual, therefore, for your estate plans to differ, or for one of you eventually to have a falling out with the other one's family. Should that occur, changes in one or both of your estate plans might be appropriate. This could cause a conflict of interest between you.
2. You have told me that because of a prior inheritance, Mary's present share of the combined estate is substantially larger than Bob's. Because you have told me that you are happily married and share your finances, there appears to me to be no conflict at present. In the course of preparing your estate plans, however, it is theoretically possible that one of you could wish to treat at least some of the assets differently. If so, a conflict of interest could arise.
3. You should also be aware that if I represent both of you, I cannot keep secret from one of you anything that the other may tell me. In other words, your conversations with me are not privileged as between the two of you even though they are privileged as against everyone else.

I am only allowed to represent both of you if I can act to the best of my ability on behalf of each of you. If you should come to disagree during the course of our relationship about how your estates should be structured, it is quite likely that I would not be able to continue representing either of you but would instead have to resign.

Please consider this situation and decide whether or not you wish to consent to my representation of both of you. Oregon law requires me to recommend that each of you consult with separate counsel in deciding whether or not your consent should be given. Whether or not you consult separate counsel is, however, up to you.

If you have questions that you would like me to answer before you make a decision, please let me know. If, after such review as you believe appropriate, you decide to consent to my representation of both of you in spite of the limitations discussed in this letter, please sign and date the enclosed extra copy of this letter in the spaces provided and return it to me.

Very truly yours,

I hereby consent to the terms of representation set forth above:

Mary Smith

Bob Smith

Dated: _____

Dated: _____