



BERKELEY RESEARCH GROUP, LLC

Policy on Conflicts of Interest

A. Statement of Policy on Conflicts of Interest

The restrictive conflict of interest standards applicable to attorneys do not apply to consulting or testifying experts. Unlike attorneys, parties with adverse interests may engage the same consultant or consulting firm. The only legal restriction regarding acceptance of “adverse” engagements by consultants appears to be that an individual consultant cannot testify or be involved on opposite “sides” of the same matter. BRG will on occasion be engaged by a client on one matter and, at the same time, engaged in a different matter by a party adverse to that client. The law regarding consultant conflicts focuses on whether there is actual confidential information that has been obtained from a client that might be used adverse to that client in a particular matter. The key to avoiding conflicts is to ensure that any confidential information obtained from a client is not improperly used and disclosed by BRG to anyone outside the particular engagement team, and that strict “Ethical Wall” rules are enforced when the need arises.

This policy addresses the potential issues that may arise in the context of BRG being engaged by a new client in matters adverse to existing or past clients.

On occasion, clients and their attorneys may not understand the distinction between consultants and attorneys on the issue of conflicts, and it may be necessary to discuss these issues with our clients and their counsel to explain how we deal with these situations.¹

B. Mechanics of Conflict Check Process

Before any engagement, regardless of size or duration, can be accepted by BRG, it must clear a conflict check process. Existing engagements with a significant change in scope or the addition of new parties must also undergo an updated conflict check. **Moreover, it is not permitted for any BRG Managing Director, Director or employee to work on a matter (i.e., “moonlight”) unless it has first been approved by the Chairman of BRG or his/her designee and has been subject to the Conflict Check process.**

¹ For examples of common scenarios, see Attachment A to this policy. Please review the situations laid out in Attachment A carefully and if you have any questions, contact a member of the Legal Department.



In the Conflict Check Process, the expert, finder or case manager will prepare a Conflict Check Form. The steps in the process are as follows:

1. Client contacts BRG expert about engagement in a new matter. Clients should be advised that a matter is not accepted by BRG until the new business intake process is completed (including the execution of an engagement letter) and a matter is activated.

2. Expert records sufficient information needed about the nature of the case to determine if a conflict exists (See Avoiding Disqualification on New Engagements below). This information must include:

- a. Name of client (s) and counsel;
- b. A complete list of all the parties involved in the matter or a copy of the complaint in the case;
- c. The Finder(s), Expert, Project Manager and If applicable, the finder's fee allocation;
- d. An informative brief, neutral description of the subject matter of the engagement (see discussion regarding Appropriate Language in Conflict Checks Process below);
- e. Designation of the matter as "consulting" or "litigation", and the practice area into which the matter falls; and
- g. Any other information that might be helpful in determining if a conflict exists.

3. Once expert compiles required information, expert submits new business intake form through Elite 3e system on BRG intranet.² The submitted intake form is automatically routed to the Conflicts Department, which searches its database for potential conflicts ("Conflict Check"). The Conflict Check is put through the BRG database of prior and existing engagements to determine if there are any related matters. If there are related matters or relevant hits found in the database, e-mails are sent to the submitting expert and key individuals who might be affected by the new engagement to advise them of a potential conflict issue. Those individuals who receive the e-mail notification should then respond

² Video training for submitting this request is available. Email akeys@thinkbrg.com for more information on available training.



ONLY to the sender of the e-mail as to whether or not there is an issue- **DO NOT HIT REPLY TO ALL.**

4. In addition to sending the Conflict Check to affected individuals, the Conflicts Department sends the Conflict Check to the following BRG staff: Managing Directors, Independent Contractor Managing Directors, Directors, and selected firm management employees. Affiliates do not receive Conflict Checks. If anyone determines that a conflict might exist, they must send an e-mail to the Legal Department, which will review the conflict check for legal conflicts and forward other, non-legal concerns about accepting an engagement to the Case Acceptance Committee, described below.

5. The BRG Legal Department will manage the process of discussing any conflict issues that may arise with all relevant parties. Unless approved by the Legal Department, the BRG individuals who might be affected by a potential legal conflict should NOT discuss the situation directly, either via e-mail or in person. To the extent necessary, the Legal Department may contact existing or past clients, seek waivers, erect an ethical wall, or take other action as appropriate.

6. To the extent that a non-legal conflict issue is raised, the Legal Department will advise the Case Acceptance Committee ("CAC"). The CAC is made up of 6 experts designated by the Chairman of BRG and its purpose is to consider non-legal conflict issues. A panel of 3 CAC members will be selected to consider the Conflict Check. The CAC will be responsible for arranging any discussions among the experts necessary to resolve the issues and will advise the Legal Department if the matter will be accepted. If the Legal Department is not advised by the CAC of a decision on a Conflict Check within 3 days of its submission to the CAC, the Legal Department may clear the Conflict Check without any further direction from the CAC, but the matter will not be activated until cleared by the CAC. During this process, all communications on the non-legal conflict issues on a matter must be directed to the CAC and not to the Legal Department.

7. The Legal Department typically requires 48 business hours to resolve any issues arising from a Conflict Check. The time necessary to resolve a non-legal conflict issue may vary depending on the complexity of the issue and the availability of the members of the CAC.

C. Other Conflict Check Policy Considerations

1. New Business Intake Forms Must list the names of all involved parties completely and accurately.

It is important that the identity of the proposed client(s) and adverse parties be clear and complete. This includes the correct and complete spelling of the names of the parties and their subsidiaries, parents, "d/b/a/s" (doing business as), etc. In the case of existing litigation, a copy of the caption page for the complaint or other pleading containing the full caption is often helpful.



Clearly identifying the client and opposing attorney is required. This information can often be found on the signature page (last page) of the complaint, response or other pleading. If additional information on or identification of the involved parties is received after the initial Conflict Check is sent out, this should be provided to Legal Department and, if appropriate, a revised Conflict Check will be issued.

2. Everyone who receives a conflicts check must carefully review it.

It is the responsibility of each recipient of a Conflict Check to review it carefully and immediately. If a Managing Director, Director or senior staff determines that the proposed client(s) are currently adverse on another matter, or that the proposed adverse parties are client(s) on another matter, that information should be immediately conveyed to the Legal Department.

3. Highly Confidential Conflict Checks

There are some situations (e.g., an unannounced merger or acquisition, litigation that has not yet been commenced) that require the names of the parties to remain confidential. Conflict Checks on such highly confidential engagements are handled on a case by case basis. As a first step in these matters, the finder should advise the Legal Department that the normal process of sending out a conflict check should not be followed. The Legal Department will then check the existing BRG client/matter database. This step in no way substitutes for a full Conflict Check, it merely identifies those situations where we likely should not even pursue the Conflict Check Process further.

The goal in processing these types of conflict checks is to identify any possible conflicts while limiting the number of people knowing the identities of the parties. Therefore, in all the highly confidential cases, the conflict check will be prominently marked as “**Highly Confidential.**” The finder, expert or Case Manager should explain our process to the client attorney(s) and work with counsel to ensure that counsel is comfortable with our process for clearing conflicts. Another method to maintain confidentiality might be to use a generic description of the industry involved with a request for people to contact the Legal Department (e.g., the case name or case description fields could read, “Potential merger of firms producing ball and roller bearings”). Please contact the Legal Department if details are required.

4. Personal Conflict Issues

a. Directly Owning Stock or Other Financial Interest in a Client or Adverse Party

BRG has no interest in being involved in the investment decisions of any Managing Director, Director, Affiliate or other employee. All BRG Managing Directors, Directors, Affiliates and employees, however, should be aware that there are certain situations where, if the adverse attorneys learn of a particular holding in someone’s portfolio, ownership of a particular security could lead to an awkward deposition or cross-examination. This is particularly true if the matter



involves a violation of SEC disclosure rules. If you are assigned to work on a matter and you have a financial interest in either the client(s)' or adverse parties' organization that is significant in terms of your financial position, you must inform the Legal Department, the testifying expert and Case Manager. You should identify when the financial interest was acquired and you should refrain from any significant changes in that position until the matter for which BRG has been engaged is resolved. If this imposes a hardship, contact the Legal Department or the Case Manager. Positions you may have acquired through investments in diversified mutual funds are unlikely to pose any significant problems.

b. Family Member or “Significant Other” Works for Client or Adverse Party

If a member of your family (spouse, parent, child or sibling) or your “significant other” works for a client or adverse party, BRG may have to avoid assigning you to a particular matter or institute an Ethical Wall to avoid even the appearance of a conflict of interest or other impropriety. It is the responsibility of every Managing Director, Director, and senior staff to review the Conflict Checks as they arrive and inform the Legal Department if a family member or significant other works for the proposed client(s) or adverse parties. If the engagement becomes active, it is the responsibility of the Case Manager to review any possible conflicts and decide, in conjunction with the expert and the Legal Department, what restrictions should be instituted, if any. Any BRG personnel learning at any time that they may be assigned to a matter where a family member or significant other works for the client(s) or adverse parties should immediately inform the Legal Department or the Case Manager. The Case Manager, in conjunction with the expert and the Legal Department, will then determine the extent of that person's involvement in the matter, if any, and inform the appropriate members of the case team. BRG personnel are not to disclose to the family member or “significant other” any information about the engagement, or even the fact that BRG has been engaged in the case, unless that information is publicly known.

c. New Employee Conflict Issues

When an expert or staff member comes from another organization and joins BRG, and has worked on a case for a client that is adverse to a BRG client on that or a related case, there are a number of potential conflict issues that must be considered. Also, a number of senior staff and Managing Directors and Directors have joined BRG from government service where they may have been involved in matters involving BRG clients. By law, in most cases these former government employees are restricted from having any involvement on behalf of an interested party on any matter on which they worked while they were in government service. In these circumstances these former government employees and new employees from other consulting firms should not be provided with access to any information regarding the BRG engagements related to their former employment. Moreover, these new employees should not discuss confidential information concerning their government work or work at their previous employment with anyone at BRG, particularly those individuals working on the related engagements at BRG. If you have any questions concerning the legal restrictions on future work applicable to former governmental employees contact the Legal Department



Once it is determined that a situation exists where a new employee needs to be restricted from involvement in a particular matter, an Ethical Wall will be established delineating the limitations of access to information to the appropriate individuals. Each Case Manager and Managing Director should be specifically aware of the BRG personnel that should not be involved in any discussions concerning or should not have access to confidential information concerning their specific matter. The Case Manager should inform all BRG personnel working on the matter of the existence of the Ethical Wall, and ensure that each member of the engagement team follows its restrictions.

d. Other Conflicts

If you have been assigned to an engagement that you feel for any reason (religious, ethical or other personal relationship) that you cannot participate in an unbiased and enthusiastic manner, you should immediately notify the Case Manager. The Case Manager, in conjunction with the testifying expert and a member of the Legal Department, will then determine what steps, if any, will be taken.

D. Avoiding Disqualification on New Engagements

There are several cases in which an expert witness has been disqualified from accepting an engagement from a party because the expert had made a presentation regarding a possible engagement to the other party in the matter. Indeed, in one case, an expert was disqualified from accepting an engagement from one party after having had a fifty-five minute conversation with the other party's counsel in the litigation. Several courts have indicated that when one party provides confidential information to an expert during a pre-hire interview, even if that party does not engage the expert, the opposing party may not subsequently engage the expert. In one case, a law firm has been disqualified as a result of engaging an expert who had been interviewed by the other party's counsel. Although rare, in some situations one attorney may interview a number of potential experts with the express purpose of "contaminating" the most experienced experts with confidential information about the case so that the other party cannot engage these qualified experts.

Accordingly, when making a proposal on an engagement it is important to clarify BRG's position regarding your ability to be engaged by other parties to the matter if the first party interviewing you does not engage you. To avoid any misunderstandings and lost business opportunities, the following steps should be taken when you are proposing on a matter and you do not want to be precluded from accepting work from other parties if you are not engaged by the first party with whom you interview.



1. The client or its attorney to whom you are proposing should be told **explicitly** that if they do not engage you in the matter, you would not be precluded from accepting an engagement from the other parties in the matter.³

2. The client or its attorney with whom you are interviewing should be told **not** to provide you with any non-public, confidential information regarding the matter. You should not agree either orally or in writing to maintain the confidentiality of information provided to you during the proposal stage unless it is equally clear that if you are **not** engaged you and BRG will be free to provide services to other parties in the case.

3. You should **not** participate in discussion of trial strategy or the potential client's legal theories prior to being engaged. While it is appropriate to discuss general approaches to problems, it is not appropriate to provide "preliminary" thoughts as to the type or scope of a claim until you have been engaged and have had an opportunity to do preliminary analysis.

4. If you make a presentation to Client X and you are not engaged, and if someone else in BRG is approached by another party in the matter, Client Y, BRG must immediately disclose to Client Y the meeting with Client X so that Client Y can determine if there is an issue regarding a possible disqualification.

5. To the extent possible, the BRG employees who made the proposal to the first potential client should not be involved in the work for the new client that subsequently engages the Company, and they should not discuss their meeting with the first potential client with the BRG employees working on the case. An Ethical Wall will be put in effect to isolate the employees who spoke to the first potential client.

If a prospective client does not want to agree to the notion that you can accept an engagement from another party if you are not engaged by the prospective client (step 1), or if you feel it would be inappropriate to raise the issue because of marketing considerations, you should carefully consider if you really want to make the proposal and interview with the client. If you proceed, it is important to follow steps 2-5 to minimize the potential for disqualification of BRG and its other Managing Directors, Directors or Affiliates if you are not engaged on the matter. If you have any questions on this type of situation, call the Legal Department to discuss how you should proceed.

E. Appropriate Language in Conflict Check Process

³ Attachment C to this policy contains draft language that can be sent to a prospective client to obtain a waiver of any potential conflict if BRG is not engaged by the prospective client.



Experts are not "advocates," but, rather, are independent and objective witnesses. As such, an expert witness does not have a "side" in litigation and is not "opposing" anyone. Each expert is also responsible for his/her own analysis and there is not a "BRG" position on the various issues upon which one of our experts might opine. It is important to use neutral language, and not language that implies the expert already has a predetermined opinion regarding the potential new matter, or that the expert is in any way not independent and objective. A Conflict Check may be subject to discovery, and when participating in the Conflict Check Process you should make sure you would feel comfortable with your comments or discussions if they were produced in discovery. Examples of inappropriate comments are:

1. "We have been engaged to **rebut** the **opposing** expert's report"
2. "We have been hired to **help** or **assist** our client **reduce** the level of damages"
3. "We have been engaged to **support** our client's damage claim"
4. "We shouldn't take this case because it is against a **protected client**"
5. "We have been hired to **help** our client **establish** liability"
6. "We have to make sure our **positions are consistent** on these matters"

With respect to each one of the statements above, except number 6, there is a more neutral and appropriate way to describe the nature of our work and any concerns there may be on conflict issues:

1. "We have been engaged to **review and analyze** the other expert's report"
2. "We have been engaged to **consider** the issue of damages"
3. "We have been engaged to **review and consider** the damage claim in this matter"
4. "We may have a **potential conflict issue on this matter** because of prior engagements with the adverse party"
5. "We have been **engaged to consider** liability related issues"

With regard to item number 6, it is **never appropriate to discuss a position** on a matter in connection with a Conflict Check or in response to a Conflict Check when a concern is raised. (BRG does have long-standing clients for whom BRG experts have taken positions regarding matters sensitive to the client's interests. These positions still are the positions of the individual expert, and not of BRG, and it would be inappropriate to describe any opinion given or position taken to be that "of BRG.")



The Legal Department will make an effort to delete any inappropriate comments from the submitted Conflict Check forms, but it is the responsibility of each individual submitting a Conflict Check to make sure he/she complies with the appropriate ways of describing our involvement in a case.

F. Ethical Walls

Where appropriate, BRG may establish an “Ethical Wall” to ensure that client confidential information is used only in connection with the specific client engagement. The use of Ethical Walls help assure our clients that we have taken the reasonable steps necessary to protect the use of their confidential information and to minimize the possibility that BRG might be disqualified from engagements because of inadvertent lapses of confidentiality. The Ethical Wall is one of the procedures BRG can reference when asked by clients or outside counsel about our confidentiality, conflict of interest and information restriction policies.

To create an Ethical Wall, the Legal Department first circulates an internal memorandum setting forth the conditions of the Ethical Wall with respect to the affected engagements. BRG requires strict separation of the teams such that the members of one team do not provide services in connection with the other affected engagement. As consistent with BRG’s regular practice, the individuals providing services on the cases subject to the Ethical Wall are instructed not to discuss confidential matters relating to that particular case outside of their respective engagement team. The BRG personnel working on the affected engagements are specifically identified to one another in the memorandum, and are reminded that discussions pertaining to the subject matter of the respective engagements are prohibited. Team members are reminded of BRG’s policy with regard to securing client sensitive hard copy information. In addition, electronic files containing client confidential information are secured on BRG’s servers such that the information in each case folder may be accessed only by team members for that matter that have been sent the ethical wall memorandum. Finally, each team member is requested to sign a statement, in most instances electronically, acknowledging that he or she has read Ethical Wall memorandum and agrees to abide by its terms. The exact information restrictions are intended to be flexible and appropriate to each matter, and are looked at on a case by case basis. A copy of a standard form of Ethical Wall is attached as Attachment D.

The Legal Department is responsible for implementing and cataloging the Ethical Walls within BRG and for maintaining all documentation related to the Ethical Walls. The Legal Department will assist with needed information, such as identifying staff who may be working on cases that are subject to Ethical Walls. However, case managers and experts retain primary responsibility for (1) educating BRG personnel regarding a case that is subject to an Ethical Wall; (2) ensuring that new team members are added to the ethical wall notification memo, and (3) securing information as needed.

Upon request, Legal Department can provide the case manager or expert with an updated list of personnel who are working on the “other side” from their case in an Ethical Wall. If there are specific representations concerning confidentiality that have been made to parties outside of



BRG, copies of these representations are also to be conveyed to the Legal Department and Expert or Case Manager for the file (e.g., copies of letters to counsel).

It is the responsibility of the case manager, the expert and any other party involved in matters subject to an Ethical Wall to monitor the information flow to prevent confidential information from being improperly transmitted, and to make sure that the Legal Department has a complete and accurate list of all people who are effected by and informed of the restriction.



ATTACHMENT A

POTENTIAL BUSINESS CONFLICT ISSUES

A. Case No. 1: Client X engages BRG in an action adverse to Party A.

Case No. 2: Party A wants to engage BRG in an unrelated matter that does not involve Client X.

LEGAL ISSUES:

This situation does not create the possibility of a legal conflict.

No one can seek to disqualify BRG in Case No. 2 because once Party A has engaged BRG, it already should be aware of its engagement with Client X adverse to Party A.

PRACTICAL CONCERNS:

Client X should have no significant concern with this situation since our retention by Party A shows our independence, i.e., we are engaged by parties to whom we are or have been “adverse.”

The only concern Client X might have on a practical basis is whether or not BRG, engaged by Party A in Case 2, will be independent of Party A in Case No. 1. This is not a real issue given the nature of diverse engagements BRG accepts. Although Client X cannot require that we do not take Case 2, Client X can decide to terminate our engagement in Case 1.

STEPS TO TAKE:

1. Contact the Legal Department before advising Party A (if Party A is unaware of the situation) of our work for Client X.
2. Get permission from Party A to make a general disclosure to Client X of the nature of Case No. 2.
3. In most cases, we will advise Client X of the potential new engagement in Case No. 2 and resolve any concerns Client X may have.
4. A member of the Legal Department must review any engagement letter before it is sent to Party A.



B. Case No. 1: Client X engages us.

Case No. 2: Client Y asks us to take an engagement “adverse” to Client X.

LEGAL CONCERNS:

This scenario creates the potential for a legal conflict.

If the two engagements are related, e.g., they are in the same case, there may be an issue of confidential information having been obtained in Case 1 which theoretically would not be available in Case 2, which could be used “adversely” to Client X. In this case BRG may be precluded from accepting the second engagement for Client Y even if an Ethical Wall is put in place.

If the cases are unrelated or there is no confidential information issue, then the issues involve business, not legal, concerns, i.e. Client X simply might not want us working on matters in which it is adverse. Although Client X cannot require that we do not take Case 2, Client X can decide to terminate our engagement in Case 1.

STEPS TO TAKE IF THE CASES ARE RELATED:

1. Contact the Legal Department before communicating any possible conflict with client X or Client Y.
2. Obtain from Client X authority to disclose to Client Y our engagement by Client X in Case No.1.
3. Advise Client Y of the fact that Client X engages us in another case and that we must clear conflicts. Client Y cannot be advised of the nature of Case No. 1.
4. If appropriate, we may attempt to obtain consent from Client X before we proceed in accepting the engagement from Client Y.
5. The Legal Department must review any engagement letters before they are sent to Client Y.
6. If Client Y engages us, in all likelihood it will be necessary to establish an Ethical Wall between the teams on these engagements.

STEPS TO BE TAKEN IF CASES ARE UNRELATED:

1. Contact the Legal Department before communicating any possible conflict with Client X or Client Y.



2. Advise Client X after getting permission from Client Y to make a general disclosure. Accordingly, we need to address the business issue of whether we want to possibly lose our work in Case 1 in order to proceed with the engagement in Case 2.
3. The Legal Department must review any engagement letters before it is sent to Client Y.



ATTACHMENT B

[Client Name]

Dear _____:

Thank you for your interest in engaging BRG in connection with the **[matter name]**. You have asked us to provide you with information regarding our Company's "conflicts" policy.

First, it is not uncommon that the experts at BRG do work on matters "for" and "against" the same clients or law firms, on some occasions at the same time. This is a normal part of our practice because our experts are objective, independent consultants and advisors, not advocates for a "side" or "position." Indeed, the legal requirements concerning conflicts which apply to attorneys prohibiting attorneys from representing a client against another present or past client are not applicable to consultants or experts (for example, see Great Lakes Dredge & Dock Co. v. Harnsflager Corp., 734 F. Supp. 334, 339 (N.D. Ill. 1990).

Second, most of our clients recognize the impropriety of having BRG or its experts "commit" to work only for them or their law firm, or on one side of an issue. Such a "commitment" would make the opinions or our experts suspect for lack of objectivity. The potential for such "relationship" or "positional" bias of any expert and the effect such bias has on the perceptions of a jury has been commented on by leading trial practice authorities. Thus, the National Institute of Trial Advocacy, the leading and respected trial practice seminar group in the country, addressed this very issue in its trial materials on experts for its students:

1. Relationship with Party or Counsel

An expert's relationship with a party or with counsel may also indicate a lack of impartiality. Some witnesses seem to work hand in glove with certain law firm's testifying to similar conclusions in case after case. While such an ongoing relationship is not proof of bias, it does suggest that the association may have been sustained for a reason.

The extent of the repeated retention is important. It will usually be of little significance that an expert worked on two or three cases for one law firm over a fairly lengthy period. After all, the firm might prize the witness precisely for his/her independence. On the other hand, it can become questionable when a firm has engaged the same expert on a dozen or more occasions. While there may be a perfectly innocent explanation for this constancy, it is certainly reasonable to bring it out on cross examination.

The same analysis pertains to witnesses who have testified repeatedly for the same party, although retained by different law firms.



* * *

2. Positional Bias

With or without regard to past retention, some experts seem wedded to certain professional, scientific, or intellectual positions. Experts frequently come to testify only for plaintiffs or only for defendants. Others reach only one of a range of conclusions. Some psychiatrists, for example, have been known never to find a single criminal defendant to be sane or competent. Where they exist, these rigidly held positional biases can be exploited effectively on cross examination.

S. Lubet, Modern Trial Advocacy, Analyses and Practice (NITA 1994)

We hope this clarifies our policy regarding BRG's handling of conflict issues. As you can see, we are quite sensitive to these issues and have had a great amount of experience in dealing with such concerns. If you would like to discuss the issue in more detail, please feel free to call.

Sincerely,



ATTACHMENT C

Dear _____:

This letter is to confirm our discussions concerning the possible retention of BRG Group, LLC ("BRG") by _____ ("Law Firm") on behalf of _____ ("Client"), in connection with providing expert consulting services in _____ ("matter"). In connection with our possible retention in this matter, it is expected that BRG may be shown certain confidential documents and be provided other confidential information relating to this case. Accordingly, BRG has executed the attached confidentiality agreement to protect the confidentiality of the information disclosed to us.

As we also discussed, it has not yet been decided whether BRG will, in fact, be retained by Law Firm on behalf of the Client. Accordingly, BRG, Law Firm and the Client have agreed that if BRG is not retained by Law Firm on behalf of the Client in this matter, notwithstanding the fact that BRG may have reviewed confidential documents and may have been provided other confidential information relating to this matter, BRG and any of its employees who reviewed any confidential information or documents, will not be precluded from accepting a retention as an expert consultant in this matter from any other party in the matter adverse to Law Firm and Client. If BRG or its employees are retained by another party in this matter, Law Firm and the Client expressly waive any potential conflict of interest that might be asserted against BRG, its employees or any other party in the matter.

If this letter accurately reflects our agreement, please execute a copy of this letter where indicated below and return it to me as soon as possible.

Sincerely,



Agreed to by [Law Firm]

For itself and on behalf of [Client]



ATTACHMENT D

Memorandum

For Internal Use Only

Date:

To: SEE ATTACHMENT A

From: The Legal Department

Re: ETHICAL WALL – Insert Case Codes for Cases Subject to the ethical wall

cc:

_____, one of our [Insert title], is beginning work on a case (XYZXX) in which ABC COMPANY (“ABC”) is listed as the [client/adverse party]. The individuals on Team 1 and Team 2, as shown on List A, are currently working on cases in which ABC is the [client/adverse party] (ABCXX-1234, ABCXY-4321, collectively referred to hereafter as the “ABC Cases”). We have determined that no conflict exists. Nevertheless, we are establishing an Ethical Wall between the ABC Cases and the XYZXX matter to ensure that any confidential and proprietary client information is not improperly used. Of course, as part of our regular practice, the individuals working on these cases should not discuss confidential matters relating to that case outside of their respective engagement teams.

The Ethical Wall we are establishing requires that the individuals listed on List A ensure that confidential and proprietary client information is not used in connection with any other matter and is not disclosed, intentionally or inadvertently, to individuals not working on their respective engagement teams. In particular, the members of Team 1 and Team 2 should not discuss their cases with _____, (and/or the individuals on Team 3), and vice versa. Team members must



also make sure that all electronic files relating to client confidential materials are protected by appropriate passwords and sensitive hard copy information is secured.

Currently, _____ is the only person shown as working on the XYZXX matter. In the event that other personnel are added to any of the teams, please notify me. **Only those persons listed below will have access to the electronic files for these engagements; if access is required for additional personnel, please notify me immediately so that appropriate access may be granted.**

Additionally, individuals working on one engagement team are not allowed to provide services to any of the other engagement teams mentioned in this Ethical Wall, unless it specifically approved in writing by the Legal Department.

Thank you for your cooperation and strict adherence to the requirements of this Ethical Wall.

Employee Acknowledgement: I have read this memorandum and agree to adhere to the above-mentioned protocol:

Name (print)

Signature

Date

List A

Team 1: ([Case Code])



Team 2: ([Case Code])

Team 3: ([Case Code])