



## When Zealous Advocacy Goes Too Far

By Stony Olsen

**It's important to be zealously engaged on behalf of your client. But there are lines that no attorney should ever cross. Sometimes the ethical decisions are hard, such as the story a while back about the two attorneys who had a confession from a client about a murder the client had committed while another guy was in jail for the crime. Attorney-client privilege caused some real issues there.**



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But sometimes the ethics are completely clear. It's just too bad that Robert Simels didn't think so. Simels was once a Special Assistant Attorney General for New York's Special Prosecutor Office, and thereafter he went into criminal defense.

And in that defense practice, he managed to represent some real winners. Simels claims, for example, to have represented mobster Henry Hill, whose story was retold in the movie *GoodFellas*. Simels also represented another drug kingpin who is now in prison for life without parole and, according to the IRS, once targeted rapper 50 Cent.

But this time Simels went too far. He was representing one Shaheed Kahn, who was facing charges of cocaine trafficking. Or rather, he was representing Kahn until the federal government arrested him on September 10th, 2008, on charges of witness tampering. Apparently, wiretaps have Simels urging various witnesses against Kahn to be "eliminated" or "neutralized."

Kahn was indicted in 2006 on charges that he headed up the so-called "Phantom Squad," a violent paramilitary group that ran cocaine and committed murders. The wiretap records Simels saying such lovely things as "don't kill the mother," because if the witness was killed, Kahn would be put in the terrorist jail cells, which are highly restricted. "If the mother gets killed, then the government will go crazy and they'll put him into the special housing unit, limit his phone calls, limit my access to him," Simels explained on the tape.

Simels is currently out on bail on a \$3.5 million bond. Hopefully, he won't run.

Now, my memory of professional responsibility in law school is admittedly a bit hazy. But, I do think that arranging to eliminate witnesses against your client is against the rules. Of course, with the kind of trouble Simels is in, I imagine his law license being yanked is the least of his worries.

Still, in case other attorneys are reading this, let me warn you that witness tampering and trying to eliminate the other side's case against your client will not be looked on favorably — not by the bar or by the authorities. So don't do it!

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