

## Loose Lips Sink Ships<sup>1</sup>

The adage 'loose lips sink ships' can easily be applied to solicitors. When at a wine bar, or a pub, or in a lift we have to be careful about what we communicate to others concerning client matters.

I was recently in a lift where two young members of the profession were discussing how they were preparing a brief to be delivered to counsel. They spoke of a controversial photograph and identified material which could easily link the client of the law practice. We need to keep in mind that we have an obligation of confidentiality.<sup>2</sup> The obligation is nearly absolute. There are only limited exceptions.<sup>3</sup>

Loose lips can sink not only the law practice but also the reputation of the person or persons who may have inadvertently published to third parties their client's confidential information.<sup>4</sup> When in a social environment (a pub or wine bar or at a friend's home for a bar-b-que) or in a lift or in using social media we must remember that we have to be constantly vigilant to protect the interest of our client's right to privacy and confidentiality.

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<sup>1</sup> This is an American idiom originating in World War II propaganda. It means 'beware of unguarded talk'.

<sup>2</sup> This obligation arises at common law (it is implied in all retainers), in equity and under **Rule 9** of the *Australian Solicitors Conduct Rules 2012* (ASCR).

<sup>3</sup> See **Rule 9.2** ASCR – consent etc.

<sup>4</sup> A client can sue the solicitor and law practice for a breach of confidence: *Taylor v Blacklow* (1836) 3 Bing NC 235. It could also expose us to disciplinary action.