

You wish to know whether it would be improper for a law firm (professionally incorporated) to invest in twenty-five percent (25%) of the stock of a realty corporation soon to be established, and at the same time assist with the closings of conveyances and loans associated with the conveyances which were originated by the realty corporation.

The Committee believes that DR:5-101(A) is the appropriate and controlling rule in this situation, which states that an attorney may not accept employment if his own personal, financial, business or property interest may adversely affect his independent professional judgment on behalf of his client unless the client consents after full and adequate disclosure under the circumstances.

Furthermore, if the realty corporation becomes a client of the law firm, the law firm may continue representation of the purchasers and/or sellers brought in by the realty corporation provided the interest of each can be adequately represented, and each consents after full disclosure of the possible effect of such representation on the attorney's exercise of his independent, professional judgment on behalf of each. (DR:5-105(C))

The Committee has previously opined that it is not improper for an attorney who is a limited partner, stockholder, officer or director of a title insurance company to purchase title insurance policies for clients for whom the attorney conducts a real estate closing, providing the attorney makes full and adequate disclosure of his involvement with the title company and the client consents thereto. (See LE Op. 886 and LE Op. 939)

The Committee also directs your attention to DR:3-103, which states that a lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law. For the purposes of this opinion, the Committee will assume that the realty corporation will not engage in any activities which could be construed to constitute “the practice of law.”

Committee Opinion  
September, 1988