

Committee Opinion  
May 1, 1985

LEGAL ETHICS OPINION 621

CONFLICT OF INTEREST –  
SUBSEQUENT REPRESENTATION –  
FORMER CLIENT – ADVERSE  
INTEREST/PARTY.

If there is a likelihood that a former client will be a party to litigation, it would be improper for an attorney to represent a person victimized by the former client's fraudulent sale transactions since the civil litigation in behalf of that person would be substantially related to the subject matter of the attorney's former representation of the former client and the attorney's representation would be materially adverse to the former client. However, the consent of the former client after disclosure to the former client would remedy the disqualification.

The applicable provisions of the Virginia Code of Professional Responsibility are DR:5-105(D) and (E). DR:5-105(D) states:

A lawyer who has represented a client in any matter shall not thereafter represent another person in the same or subsequently related matter if the interests of that person are adverse in any material respect to the interests of the former client unless the former client consents after disclosure.

Note further that DR:5-105(E) would disqualify any partner or associate if an attorney is disqualified by DR:5-105(D).

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