

It is not improper for a substitute trustee to proceed with foreclosure and defend, by independent counsel retained for the purpose, the action by a third-party endorser and guarantor who has been represented from time to time by the substitute trustee's partner when the partner of the substitute trustee has represented the third-party endorser and guarantor on unrelated matters and there is actual notice from the third-party endorser and guarantor that he will attempt to equitably stop or delay a foreclosure by the substitute trustee. The substitute trustee must have the consent of his client and his partner's client after full disclosure. [DR:5-105(A), (C) and (D), LE Op. 744]

Committee Opinion
May 27, 1986