

An attorney recovered fees which were subject to division with a forwarding attorney. Subsequently, client advised the attorney that client and forwarding attorney were involved in a dispute over the fees and requested that attorney not transmit any funds to the forwarding attorney until the dispute was settled. Attorney sent a letter to both the client and forwarding attorney outlining the attorney's understanding of the disposition of money and stating when the attorney expected to disburse the funds. Client approved the attorney's proposal and no response was received from the forwarding attorney. Eventually, the attorney disbursed funds as outlined in the proposal and withheld the funds that the attorney understood to be in dispute. The forwarding attorney then notified the attorney that he disagreed with the manner in which the attorney had distributed the funds. Consequently, the attorney restored ample funds to his trustee's account to cover the amount the attorney understood to be in dispute.

Given the above circumstances, the committee opined that the attorney was not required to advise the forwarding attorney of client's concerns regarding fees and that the attorney appropriately disbursed the fees. The committee advised the attorney to deposit the retained funds into one or more identifiable bank accounts pending resolution of the dispute between client and forwarding attorney. The committee determined the resolution of the disagreement to be a legal, and not an ethical matter. [ DR:2-105(D), EC:2-24, DR:9-102(A)(2)]

Committee Opinion  
September 19, 1986