

Committee Opinion
October 26, 1988

LEGAL ETHICS OPINION 1094

PREPARATION OF LOAN
DOCUMENTS.

You wish to know whether or not it is proper for an attorney for a borrower to sign a stipulation that loan agreements and loan documentation prepared by a bank are legal, valid, binding and enforceable.

Disciplinary Rule 5-105(A) states that "A lawyer shall decline proffered employment if the exercise of his independent, professional judgment on behalf of a client will be, or is likely to be, adversely affected by the acceptance of the proffered employment, except to the extent permitted under DR:5-105(C)." Disciplinary Rule 7-101(B) states: "In his representation of a client, a lawyer may: (1) With the express or implied authority of his client exercise his professional judgment to limit or vary his client's objectives and waive or fail to assert a right or position of his client." [DR:7-101]

The Committee opines that this transaction does not compel an attorney to have undivided loyalties. This is the traditional method of representing a client in a real estate closing and it is required that the attorney provide his or her opinion to the client concerning the enforceability and validity of the loan documents.

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