

Committee Opinion
August 18, 1988

LEGAL ETHICS OPINION 1138

BUSINESS ACTIVITIES – TILE
COMPANY: FINANCIAL
ARRANGEMENTS IN BEHALF
OF ATTORNEYS/SHAREHOLDERS OF
TITLE COMPANY-NONLAWYERS:
ATTORNEY ENGAGED IN BUSINESS
WITH A NONLAWYER.

You inquire as to the propriety of receiving consulting fees from a title company in which you are a stockholder, the amount of which is tied to the number of policies you obtain for your clients through the title insurance company. You have indicated there are eleven stockholders of the title company of which ten are attorneys and the other is an insurance agent from whose office the title policies are written. You further advised that one possible approach would be to allow each stockholder to receive an equal dividend from a percentage of the profits equal to the percentage contributed by non-owner attorneys, and then distribute the remaining profits as consulting fees based on a percentage of premiums contributed by each owner attorney.

The Committee opines that the proposed arrangement as outlined above does not violate the Code of Professional Responsibility. The Committee would direct your attention to prior LE Op. 939 and LE Op. 886 concerning the disclosure to clients and consent required in such an arrangement.

The Committee also directs your attention to DR:3-103 which states that a lawyer shall not form a partnership with a non-lawyer 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 title insurance company will not engage in any activities which could be construed to constitute the “practice of law.”

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Legal Ethics Committee Notes. – This opinion was vacated by L E Op. No. 1402.

Editor’s Note. – The Virginia State Bar Committee on Legal Ethics vacated this legal ethics opinion in L E Op. No. 1402.