

Committee Opinion
November 21, 1989

LEGAL ETHICS OPINION 1311

DUAL BUSINESS – PERSONAL
INTERESTS: ATTORNEY SELLING
INSURANCE PRODUCTS TO OTHER
ATTORNEYS WITH WHOM HE MAY
BE INVOLVED IN AN ADVERSARIAL
PROCEEDING.

You indicate that you are an associate attorney in a firm conducting a civil litigation practice. The representation of your clients creates situations in which you are involved with other area law firms, as well as regional and national law firms. You state that your firm represents plaintiffs and defendants, and that many of the firm's clients are insurance companies. You further state that you are contemplating obtaining a license to sell insurance and, as an insurance agent, would, on a part-basis while continuing the practice of law, solicit, offer and sell insurance products, including buy-sell agreements, to law firms. Some of the law firms approached would be those you are involved with in the representation of clients in your law practice.

You have requested the Committee to consider the propriety of your selling insurance products to law firms against whom you are presently involved in litigation or against whom you may be involved in the future. In addition, you have requested that the Committee consider the propriety of your representing a client whose adversary is represented by a firm to which you have sold such an insurance product.

The appropriate and controlling disciplinary rule applicable to your inquiries is DR:5-101(A), which provides that where the exercise of a lawyer's professional judgment on behalf of his client may be affected by the lawyer's own financial, business, property, or personal interests, the lawyer shall not accept employment except with the consent of his client after full and adequate disclosure under the circumstances. With such disclosure and informed consent, however, activities by any attorney which simultaneously constitute the practice of law and related entrepreneurial endeavors are not proscribed by the rule. (See LE Op. 1016, LE Op. 1163, LE Op. 1198, LE Op. 1254)

Therefore, the Committee is of the view that any business relationship as proposed with any law firm which represents a party adverse to a client whom you represent be fully disclosed to your client, and that your client make an informed decision before consenting to your continued employment. Such disclosure would be applicable to both present and future clients who are adverse to parties represented by a firm with whom you have developed any such business relationship.

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