

Committee Opinion
March 13, 1992

LEGAL ETHICS OPINION 1452

CONFLICTS OF INTEREST — ESTATE
ADMINISTRATION.

March 13, 1992 You have indicated that hypothetically an attorney is retained by the personal representative of a decedent's estate to render whatever legal services may be required in the settlement of the estate.

You have asked the Committee to opine as to with whom the attorney has an attorney-client relationship, i.e., the estate, the personal representative, the beneficiaries, or some combination of the foregoing.

Although there are no disciplinary rules directly addressing the issue you raise, the Committee is of the opinion that the attorney engaged to render services in connection with the settlement of a decedent's estate enjoys a similar status to that of an attorney engaged to represent a corporation or similar entity. *See* EC:5-18. The corporate entity premise, however, requires the acceptance of the legal status of the corporation as a separate person, while, in reality and in order to carry on the legal business of the corporation, communication is required between the attorney and an individual who serves as agent for the corporate entity.

Thus, since the personal representative assumes the legal status as the agent of the decedent and is the only available conduit of information between the entity [i.e., the estate] and the attorney, the Committee opines that the attorney/client relationship arises between the attorney and the personal representative, albeit for the ultimate benefit of the estate. *See* Alaska Bar Ass'n Ethics Comm. Op. 91-2 (Jan. 18, 1991), ABA/BNA Law. Man. on Prof. Conduct 7 Current Reports 66. The estate's personal representative assumes legal and fiduciary responsibilities to the estate which may include obtaining the services of an attorney. Although the attorney, in providing those services, may benefit the beneficiaries of the estate, the Committee is of the further opinion that there is no contractual privity with the beneficiaries which can give rise to an attorney-client relationship with those beneficiaries. *Goldberg v. Frye*, 266 Cal.Rptr. 483, 489 (Cal.App. 4 Dist. 1990).

Given that the attorney enjoys an attorney/client relationship with the personal representative, the Committee cautions that the prohibitions contained in the Code of Professional Responsibility as to multiple clients' conflicting interests and client confidentiality apply to that relationship irrespective of the potential benefit that the representation may hold for estate beneficiaries. *See* LE Op. 260, LE Op. 370, LE Op. 811, LE Op. 1206, LE Op. 1358, LE Op. 1387.

Committee Opinion
March 13, 1992