

Committee Opinion  
May 16, 1996

LEGAL ETHICS OPINION 1676

PERCENTAGE OF LEGAL FEES PAID  
TO NONLAWYER ENTITY WHICH  
PROVIDES ELECTRONIC  
COMMUNICATION SYSTEM TO  
DISTRIBUTE AND TRACK LAW FIRM  
ACTIVITY IN CERTAIN TYPE OF CASE.

You have presented a hypothetical situation in which a nonlawyer corporation offers an electronic communications system to credit grantors to facilitate the distribution and tracking of law firm activity in collections cases. The law firm handling the collections agrees to pay three percent of net proceeds to the nonlawyer corporation. Another similar corporation charges attorneys \$15 per claim and ten percent of the fees paid by clients to the law firm. At least one of these corporations advertises that it brings a large volume of collections business to the attorneys who participate.

Under the facts you have presented, you have asked the committee to opine as to the propriety of an attorney participating in the described activity and agreeing to pay a percentage of client fees to the nonlawyer corporation.

The appropriate and controlling disciplinary rules relative to your inquiry are DR:3-102, which precludes a lawyer from sharing legal fees with a non-lawyer except in certain limited circumstances, none of which are applicable to the facts presented, and DR:2-103(D), which in pertinent part prohibits a lawyer from compensating a person or organization to recommend or secure his employment by a client except for usual and reasonable fees or dues charged by a lawyer referral service.

The committee has previously opined that a lawyer and a nonlawyer may not enter into a consensual arrangement whereby fees received from one or more clients are divided between them. See LE Op. 1598. That rule has been applied by the committee in prohibiting the sharing of attorney fees with a group of medical experts providing testimony services to an attorney and with a company providing advertising services to an attorney. See LE Op. 1047 and LE Op. 438, respectively.

In the facts you present, the committee believes that the arrangement in your hypothetical would place an attorney in the impermissible position of sharing his fees with non-attorneys, i.e., with the electronic communication services company. The provision of a percentage of the lawyer's fee to that company would be violative of DR:3-102.

The facts of your hypothetical suggest that the electronic communications corporation(s) may actually provide the attorneys with referrals of collections work. The committee cautions that were this to occur, the payment of a percentage of the attorney's fee to the company would still be impermissible fee-splitting. While DR:2-103(D) does allow for the payment by an attorney of "the usual and reasonable" fees charged by a

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lawyer referral service, the committee opines that any arrangement in violation of DR:3-102's fee-splitting arrangement would be inherently unreasonable in this context. Thus, were the electronics communications company to provide referrals as well as tracking services, the fee percentage payment arrangement would remain an impermissible sharing of legal fees.