

*Committee Opinion*  
*November 17, 1981*

LEGAL ETHICS OPINION 437

REAL ESTATE – ATTORNEY  
REPRESENTING MULTIPLE PARTIES.

Where Builder's attorney has been entrusted with a deed from Seller to Builder to accomplish closing of a construction loan from which the purchase price of the land will be paid, Builder's attorney would be able to record the deed prior to receipt of loan proceeds only if Seller had full knowledge that such would be done and consented to that procedure. Moreover, it is assumed that Seller is not represented by his own counsel. Therefore, Builder's attorney must obtain from Seller his consent to representation of multiple parties and must undertake the obligation of explaining to Seller the risks involved in the dry closing. Where Buyer's attorney, closing a residential transaction, is dealing with an unrepresented Seller and intends to close a second deed of trust loan from which a portion of the purchase price will be paid, the same constraints mentioned above are applicable. Buyer's attorney must explain to Seller the risks which will follow from recordation of Seller's deed prior to funding of the loan and must obtain Seller's consent. Disclosure should also be made of the attorney's multiple representation and consent obtained. [See II: DR:5-105(C), DR:7-102(A)(1) & (3), and DR:9-102(B).]

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