

Committee Opinion
April 22, 1986

LEGAL ETHICS OPINION 783

REAL ESTATE – CONFLICT OF
INTEREST.

A real estate settlement attorney was to have been the closing attorney for a settlement, but the buyer defaulted on his obligation and the transaction was never settled. Seller declared buyer to be in breach and reoffered the property for sale. The loan is in default and the bank is threatening a foreclosure. Seller may subsequently bring an action against the buyer for damages incurred in the breach. Considering the above facts, the aforementioned attorney may purchase the real estate without violating the Virginia Code of Professional Responsibility as long as said attorney is able to comply with the provisions of DR:5-104. [DR:5-104]

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Legal Ethics Committee Notes. – Under Rule 1.8(a), a lawyer may not enter into a “business transaction” with a client unless the client is given an opportunity to seek independent advice, and there has been full disclosure and consent in writing.