

Committee Opinion  
September 23, 1986

LEGAL ETHICS OPINION 834

CONFLICT OF INTEREST – ATTORNEY  
REFERRING CLIENTS TO  
SPOUSE/FINANCIAL PLANNER.

An attorney and her husband, who is an attorney not practicing in Virginia and a financial planner, share office space.

It is not improper for the attorney to refer her legal clients to her husband for financial planning if the attorney makes full and adequate disclosure to the clients of her personal interest, relationship and office-sharing arrangement.

The committee cannot opine as to whether the attorney and her husband should exchange information on clients and adverse parties every time one or the other takes a client, in order to avoid unintentional conflict of interest problems. However, the provisions of DR:4-101(C)(1) do not appear to prohibit the attorney from exchanging information with a financial planner providing full and adequate disclosure has been made and consent of the client received.

The committee opines that the clients of the attorney potentially affected by exchange of information on clients and adverse parties between the husband and wife should receive full and adequate disclosure prior to an exchange of information. Furthermore, the client should give consent prior to the exchange of any information.

The committee advises that with regard to an attorney disclosing the names of clients or adverse parties to a nonattorney, the attorney should be fully aware of the attorney's duties regarding confidentiality. Before an attorney lists clients and adverse parties with a financial planner, full and adequate disclosure must be given and the consent of the client obtained. Because the husband is not practicing as an attorney, the committee cannot opine as to what the husband's profession may or may not require of him insofar as restriction of information.

Disciplinary Rule 3-102 [DR:3-102] does not preclude an attorney from employing a collection agency to collect overdue accounts. Should a collection agency retain 50 percent of the funds recovered, the committee opines that this would not amount to dividing fees with a nonlawyer.

The collection of overdue fees by an agency for a percentage of the amount collected is different from an attorney retaining another attorney to collect the same fees on a contingency basis, although the committee opines that the difference does not appear to be worth distinguishing.

Finally, it is the opinion of the committee that an attorney may release to the collection agency only as much information about the former client as will facilitate the collection of past due fees. [DR:3-102, DR:4-101(C)(1) and (4), DR:5-101; LE Op. 473 and LE Op. 190]