

Committee Opinion
September 2, 1986

LEGAL ETHICS OPINION844

CORPORATIONS – FEES – DIVISION OF
FEES AMONG RELATED LAW FIRMS.

A group of law firms desires to incorporate for the principal purpose of making the specialized expertise and experience of the attorneys in each member firm available to the attorneys in all member firms. The committee finds no ethical problem with regard to the formation of the group or any related potential activities such as seminars, employment of an executive director, computer capacity common to all, common stationery and a central office. The only potential problems foreseen by the committee are with regard to conflicts and division of fees. The committee opines that, as long as all clients of the group are aware of all the members and full disclosure is made to the client, any potential problems may be resolved.

The fee-sharing arrangement will be one whereby a member of the group may refer a matter to another attorney in a different area. Fees will be shared by the "referring" and "working" attorney. Disciplinary Rule 2-105(D) [DR:2-105] does not appear to require proportionment provided that the client consents to the employment of additional counsel, both attorneys expressly assume responsibility to the client, and the terms of the division of the fee are disclosed to the client and the client consents thereto.

In addition to dividing fees between the "referring" and "working" attorneys, it is proposed that dues equal to five percent of the fee be paid to the corporation, which five percent is to defer some of the expenses of the operation of the entity itself. Disciplinary Rule 2-102(B) [DR:2-102] prohibits an attorney from compensating a person or organization from recommending or securing employment by a client. Provided there is compliance with the disciplinary rules set forth under Canon 2, the Committee finds no problem with the proposed five percent division. Further, if specific dues are charged for specific services and any payments made to the entity by the members are dues rather than a division of legal fees, then there is no division of legal fees with a nonlawyer as contemplated under Canon 3. [DR:2-102(B) and DR:2-105(D)]

Committee Opinion
September 2, 1986

Legal Ethics Committee Notes. – Rule 1.5(e) permits fee sharing between lawyers in different firms provided the client consents and the fee is reasonable. The referring attorney may charge a fee for referring a case to another lawyer without further participation in the client's matter.