

DIGEST OF ETHICS ADVISORY PANEL
Opinion #88-12, Request #14
ISSUED MAY 13, 1988

An attorney seeks panel advice as to the proper handling of a client's money which is now held in an escrow account. The client originally instructed the attorney to forward any balance of the escrow funds to a specified address. Before the attorney disbursed any funds, the attorney was contacted by different members of the client's family, who advised the attorney, first, that they were entitled to the funds and, second, that the client had permanently left the country.

Disciplinary Rule 9-102(B)(4) provides that:

A lawyer shall . . . (4) promptly pay or deliver to the client as requested by a client the funds . . . in the possession of the lawyer which the client is entitled to receive.

The Panel takes the position that a client's money may only be released to one other than a client pursuant to the client's authorization or a court order. Further, the Panel advises the attorney that before seeking a court order the attorney must demonstrate that he has not merely accepted information concerning his client's wishes from potentially adverse sources but, instead, has conducted a diligent search for the client himself.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.