

DIGEST OF ETHICS ADVISORY PANEL
OPINION 90-9, REQUEST 81
Issued January 18, 1990

An attorney seeks Panel advice as to whether he may properly purchase an interest in one or both of two real estate trusts under the circumstances he describes.

The attorney advises the Panel that in 1986 and 1987 he was the attorney for a client ("Client X") offering a parcel of land and buildings for sale ("Parcel 1"). Parcel 1 was purchased by a real estate trust comprised of numerous individual investors. The same group of individual investors also comprise a second real estate trust which owns another parcel of real estate ("Parcel 2"). Parcel 1 is entirely separate from Parcel 2. Client X has been paid in full for Parcel 1 and has never had any dealings with the second real estate trust. There are no pending matters between the client and either real estate trust. The attorney asks whether it is proper for him to purchase an interest in either or both real estate trusts.

Rule 1.8, entitled "Conflict of Interest - Prohibited Transactions" provides, in pertinent part:

A) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory security or other pecuniary interest adverse to a client.

Since the attorney would not be entering into a business relationship with a client or entering into a business relationship adverse to a client, Rule 1.8 is not applicable. The Panel takes the position that it would be permissible for the attorney to purchase an interest in either or both real estate trusts under the circumstances recited above.

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.