

ETHICS ADVISORY PANEL  
Opinion #92-38, Request #258  
Issued July 23, 1992

An attorney seeks Panel advice with regard to the ethical propriety of the following conduct. The attorney is a stockholder of a corporation that provides constable services. The attorney frequently uses the corporation's services during the representation of clients and passes the costs of the services to the clients. The attorney inquires as to whether these actions violate the Rules of Professional Conduct. The Panel believes that Rule 1.7 "Conflict of Interest" governs this inquiry. Rule 1.7 states that:

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities . . . or by the lawyer's own interests, unless:

(1) the lawyer . . . believes the representation will not be adversely affected; and

(2) the client consents after consultation.

The comments specifically address this inquiry. They state that "The lawyer's own interests should not be permitted to have adverse effect on representation of a client . . . . A lawyer may not allow related business interests to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed interest." The attorney should make a full disclosure to the clients of the attorney's interest in the constable corporation. If the attorney wishes to refer clients to the constable services, the attorney must offer the clients a choice in constable services and should not pressure the clients into a decision.