

ETHICS ADVISORY PANEL  
Opinion #92-92, Request #318  
Issued March 15, 1993

An attorney seeks Panel advice regarding the following facts. The attorney has a written agreement for collection services that allows the attorney to deduct expenses from the funds collected. The attorney informs the Panel that initially the expenses were paid by the attorney and then the attorney was reimbursed from the funds recovered from one suit to cover the cost of prior suits. The attorney inquired as to whether or not his/her conduct was proper pursuant to the Rules.

The Panel believes that the attorney's actions conform to Rule 1.8(e)(1). That Rule states:

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter;

The attorney's actions are consistent with the Rules of Professional Conduct as long as the expense reimbursements are in accordance with the written contract and the client is fully aware that the fees recovered from one suit may cover the costs from prior suits. The attorney should maintain adequate records and upon the client's requests render "accurate entries of all financial transactions in the ledger books or similar records and in any other books of account kept by them in the regular course of practice...." Rule 1.15(b).