

ETHICS ADVISORY PANEL
Opinion #93-4, Request #334
Issued March 15, 1993

An attorney seeks Panel advice regarding the following conduct. The attorney's spouse owns a constable service. The attorney would like to use this service whenever needed in the attorney's law practice. The attorney states that all clients will be informed in writing regarding this arrangement. The attorney asks whether this proposal violates the Rules of Professional Conduct. The Panel agrees that Rule 1.7 "Conflict of Interest" addresses this inquiry. Rules 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 to another client or by the lawyer's own interests, unless:

(1) the lawyer reasonably 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 regarding the spouse's interest in the constable business. 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.