

ETHICS ADVISORY PANEL
OPINION #94-3 REQUEST #451
Issued February 23, 1994

The inquiring attorney represents X in a matter. Y, also a client of the inquiring attorney, referred X to the inquiring attorney. The inquiring attorney drafted a power of attorney enabling Y to sign documents for X as X is unable to read or write. Thereafter, the inquiring attorney received a settlement check on X's claim and unsuccessfully attempted to contact X. The inquiring attorney successfully contacted Y, Y picked up the check. The inquiring attorney subsequently learned that Y cashed the check using the power of attorney, kept one-third of the funds for Y and turned the remainder over to X. The inquiring attorney has withdrawn from the representation of Y and asks whether he/she may continue to represent X.

The Panel does not believe that the inquiring attorney is ethically prohibited from continuing to represent X. However, if X seeks to assert rights against Y for the monies Y withheld from the settlement, the inquiring attorney may not represent X in the matter.