

Digest of Ethics Advisory Panel
Opinion #92-21, Request #237
Issued May 5, 1992

An attorney seeks Panel advice regarding the intended sale of a condominium by the attorney's client. The attorney acted as escrow agent and is in possession of the deposit. The purchaser, who was unable to obtain financing, claims that he is entitled to a refund of the deposit. The client claims the deposit on the ground that the purchaser defaulted on the agreement.

The Panel believes that Rule 1.15 and the comments thereto govern this situation. A lawyer may have a duty to protect third party interests in the disputed property against the client's claim. In this situation, a lawyer may refuse to surrender the property to the client. The Panel agrees that the property should be kept in a client fund account. If the dispute over the deposit cannot be resolved, then the attorney should consider filing an interpleader action in the appropriate forum.