

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions

Opinion #199 9/30/71 (33-71) Topic: Conflicting Interests

Digest: Cannot represent mortgagor and mortgagee without express consent after full disclosure.

Code*: DR 5-105 (C);
DR 5-105 (D)

QUESTION

May an attorney or another member or associate of his firm represent the mortgagor and the mortgagee in the same transaction?

OPINION

Unless both the mortgagor and the mortgagee give their express consent after full disclosure, the same partnership may not represent the mortgagor and the mortgagee as it would be representing conflicting interest. DR 5-105 (C); Wise, Legal Ethics 255 (2d ed. 1970). A lawyer may represent multiple clients only if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each. DR 5-105 (C); N. Y. State 162 (1970).

If a lawyer is required to decline employment under DR 5-105, no partner or associate of his or his firm may accept said employment. DR 5-105 (D).

Opinion #200 - 9/30/71 (34-71) Topic: Office Letterheads and Professional Cards.

Modifies #51

Overruled (in part) by 494

Digest: Permissible information on office letterhead or professional card is limited by Disciplinary Rules.

Code*: EC 2-10;
DR 2-102 (A) (1), (2), (4) and (5);
DR 2-102 (E) and (F); DR 2-105
(A)(1);
Canon 9.

QUESTION

May a lawyer's law office letterhead or professional card indicate any of the following:

- (a) That he is a member of any bar association (national, state, county, etc.)?
- (b) That he is a member of any lawyers' association (specialty or otherwise)?
- (c) That he is or was a member of any legislature (federal, state or local)?