



## Committee on Professional Ethics

Opinion #282 - 1/25/73 (3-73)

Topic: Profit-Sharing Retirement  
Plan; Inclusion of Non-  
Lawyer Employees.

Digest: If not prohibited by  
statute, not improper to  
include non-lawyer employees  
in law firm's profit-sharing  
retirement plan.

Code: DR 3-102(A); EC 3-8

### QUESTION

May a lawyer or law firm include non-lawyer employees in profit-sharing retirement plan?

### OPINION

DR 3-102(A) provides that a lawyer or law firm shall not share legal fees with a non-lawyer with certain exceptions. DR 3-102 (A) (3) provides:

"A lawyer or law firm may include non-lawyer employees in a retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement."

The reason for the exceptions is set forth in EC 3-8 which provides:

"Since a lawyer should not aid or encourage a laymen to practice law, he should not practice law in association with a layman or otherwise share legal fees with a layman. This does not mean, however, that the pecuniary value of the interest of a deceased lawyer in his firm or practice may not be paid to his estate or specified persons such as his widow or heirs. In like manner, profit-sharing retirement plans of a lawyer or law firm which include non-lawyer office employees are not improper. These limited exceptions to the rule against sharing legal fees with laymen are permissible since they do not aid or encourage laymen to practice law."

Under former Canon 34, this practice had been questioned. ABA 303 (1961); ABA 311 (1964). However, the Code provisions quoted above have clarified the rule to where, by specific exception, it now is not improper. ABA 325 (1970).

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