

Withdrawn/June 13, 2016  
Committee Opinion  
November 24, 1987

LEGAL ETHICS OPINION 1003

ATTORNEY – RELATIONSHIP WITH  
FINANCIAL ADVISOR.

You state that a "financial advisor" who believes some of his clients should consider bankruptcy is currently referring those clients to an attorney for the filing of bankruptcy petitions. The "advisor" has proposed that he obtain information from the clients concerning their debts and assets, and also have a typist prepare the applicable forms. The attorney would obtain the forms from the advisor, review the forms with the client, again review the client's debt position, recommend a course of action, file the forms and appear with the court proceedings. The advisor would collect all fees from the client and forward them to the bankruptcy attorney along with the other information the "advisor" received. You also state that there would be no fee splitting although the attorney may charge less than the normal fee for such clients, as much of the clerical work would be done before the matter was turned over to the attorney. The "financial advisor" would not in any way be affiliated with the attorney and would be located some distance from his office.

You wish to know whether or not this arrangement is proper.

There is nothing within the Code of Professional Responsibility which prohibits this arrangement.

The Committee, however, is concerned that the activity of the financial advisor in filling out the "applicable forms" may constitute the unauthorized practice of law. Disciplinary Rule 3-101(A) [ DR:3-101] states that "a lawyer shall not aid a nonlawyer in the unauthorized practice of law." Disciplinary Rule 3-104(A) [ DR:3-104] allows lawyers to employ nonlawyers to perform delegated functions under the "direct supervision" of a licensed attorney. Unless the forms are being filled out by the nonlawyer personnel under the supervision of the lawyer, a Canon 3 problem could arise.

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