

*NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions*

Opinion #223 - 12/20/71 (55-71)

Topic: Division of Legal Fees

Digest: New York lawyer may divide partnership income as agreed with partner admitted in a different jurisdiction

Code: DR 2-102 (D); EC 2-22

QUESTION

May a New York lawyer divide partnership income by agreement with his partner admitted in a different jurisdiction without regard to who produced the client, performed the services or where the matter was handled or tried?

OPINION

A New York lawyer may form a partnership with a lawyer admitted in a different jurisdiction and maintain offices in New York provided the firm letterhead and listings clearly show the jurisdictional limitations of both attorneys. N.Y. State 144 (1970); ABA 316 (1967); DR 2-102(D)

The provisions of EC 2-22 requiring that the division of legal fees be based on services performed and responsibility assumed pertains only to arrangements between lawyers not of the same firm.

How members of a firm divide income is not normally of ethical consequence either for intrastate or interstate firms, ABA 316 (1967), except that a multi-state law firm may not use in New York a name composed of one or more lawyers not admitted to practice in New York unless the local lawyer is a true partner with a real share in the over-all profits, liabilities and professional responsibilities of the entire firm. N.Y. State 175 (1971).

Which partner produced the client or performed the services or where the work was handled or the matter tried, has no effect ethically on the division of the fee between the partners.