



Committee on Professional Ethics

Opinion #291 - 4/27/73 (12-73)

Topic: Dual practice;
Conflict of interest

Digest: Lawyer may not accept legal fee and brokerage commission from same client in connection with same transaction, if he or his spouse has an interest in brokerage agency.

Code: Canon 5
DR 5-101(A)
EC 5-1; 5-2

QUESTION

May a lawyer receive a legal fee and a real estate brokerage commission from the same client in connection with the same real estate transaction if he or his spouse has an interest in the brokerage agency?

OPINION

For the reasons stated in N.Y.State 206(1971) and N.Y.State 208 (1971), it would be improper for a lawyer having an interest in a real estate agency to accept a legal fee and a real estate brokerage commission from the same client in connection with the same real estate transaction. See Canon 5; DR 5-101(A); EC 5-1; EC 5-2.

Even though the lawyer personally does not own or have an interest in the real estate agency but his spouse owns or has such interest, it would be improper, for the reasons stated in N.Y. State 244 (1972), for the lawyer to receive a legal fee in such circumstances.
