



## Committee on Professional Ethics

Opinion #388 - 5/13/75 (24-75)

Topic: Law practice as both partner and individual.

Digest: Not improper for partner to practice as an individual if valid reason exists for such practice and care is taken to avoid confusion.

Code: EC 2-11, 2-13.  
DR 2-102(B),(C); 5-105(D)

### QUESTION

May a member of a law firm individually represent particular clients and use his own stationery which lists the same address as the partnership?

### OPINION

An attorney may practice law under his own name or in a partnership, but he should avoid the use of a name that could mislead laymen. EC 2-11, EC 2-13, DR 2-102(B) and (C). Assuming a valid reason for the attorney's dual practice as a partner and as an individual lawyer, e.g., the attorney is not attempting to accomplish as an individual some end that is forbidden him by his participation in the partnership, the attorney's individual representation of clients at the offices occupied by the attorney's partnership would not be improper so long as the clients understand that the attorney and not the partnership is representing them. The attorney should also take any affirmative steps necessary to prevent confusion in the minds of clients as to whether they are being represented by the attorney individually or by the partnership. N.Y. City 868 (1965).

The partnership and the attorney must be careful to observe DR 5-105 (D), which provides:

"If a lawyer is required to decline employment or to withdraw from employment under DR 5-105, no partner or associate of his or his firm may accept or continue such employment."

Therefore the attorney should not in his individual capacity represent a client whose interests are adverse to a client represented by the partnership or by any partner or associate of the partnership. Such representation would be contrary to DR 5-105(D), and would also be inconsistent with Canon 9 requiring that even the appearance of professional impropriety be avoided. N.Y. State 231 (1972).