

Committee Opinion
July 25, 1986

LEGAL ETHICS OPINION 814

CONFLICT OF INTEREST - PERSONAL
INTEREST IN LITIGATION.

An attorney represents his aunt with regard to the rescission of an agreement between the aunt and her niece and her niece's husband for the purchase of real estate. The mortgage on the real estate is in default and the lender has agreed to loan the attorney the money for the purchase of the same property. It is the opinion of the committee, given the above circumstances, that the attorney either choose not to represent his aunt in the given situation or, to represent his aunt only after advising the aunt of his personal interest, particularly with regard to the favorable purchase price, and obtaining her consent to his representation in the rescission matter. [DR:5-101, DR:5-105(C)]

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Legal Ethics Committee Notes. – Under Rule 1.8(a), a lawyer may not enter into a “business transaction” with a client unless the client is given an opportunity to seek independent advice, and there has been full disclosure and consent in writing.