

Committee Opinion
November 16, 1988

LEGAL ETHICS OPINION 1160

FEES: CONDITIONS FOR ACCEPTING
A FORWARDING FEE.

You wish to know whether an attorney may accept a forwarding fee on a case which he has forwarded because of a conflict of interest.

You correctly identify DR:2-105(D) as the appropriate and controlling rule in this situation. Disciplinary Rule 2-105(D) provides that a division of fees between lawyers who are not in the same firm may be made only if (1) the client consents to the employment of additional counsel; (2) both attorneys expressly assume responsibility to the client; and (3) the terms of the division of the fee are disclosed to the client and the client consents thereto. You correctly conclude that in your situation where you will not be able to "expressly assume responsibility to the client" because a conflict prevents you from doing so, you will be unable to meet the requirements of this disciplinary rule.

Therefore, the committee opines that it would be improper for you to accept a forwarding fee based on the facts outlined above. (See also L E Op. No. 945 and L E Op. No. 1130)

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Legal Ethics Committee Notes. – Rule 1.5(e) permits fee sharing between lawyers in different firms provided the client consents and the fee is reasonable. The referring attorney may charge a fee for referring a case to another lawyer without further participation in the client's matter.