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Attorney at Law

RE: Ethics Opinion 90-8

Dear

You have requested the opinion of the Ethics Committee regarding a factual situation set out below.

FACTS

Your firm has associated with an outside lawyer, lawyer B, on several specific and independent cases. At least some of those cases are contingent fee cases. Subsequent to the association, lawyer B has been disbarred. At the time of lawyer B's disbarment, the various cases were in various stages of resolution. Your letter states the examples that at the time lawyer B was disbarred, some cases were settled waiting, for disbursement of money; some were settled shortly after the disbarment; and, some were just getting started.

OPINION

Under Rule 1.5(a)(1) there may be a division of fees between or among lawyers who are not in the same firm so long as such division of fees is in proportion to the services performed by each lawyer. The only exception is that there may be some other distribution if by written agreement with the client each lawyer has assumed joint responsibility for the entire matter. The committee makes the assumption that there was no written agreement with the individual clients whereby your firm and lawyer B assumed joint responsibility for the entire matter.

Rule 5.4(a) prohibits a lawyer or law firm from sharing legal fees with a non lawyer. Clearly, lawyer B is a non lawyer after his disbarment.

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Based upon these facts and the authorities cited herein it is the opinion of the Committee that lawyer B is entitled to and may be paid those fees which he lawfully earned prior to his disbarment.

Respectfully submitted,
Ethics Committee



Donald E. Covey, Chairman