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Ernest W. Stephens, Retired

Jerry L. Wattier

May 31, 1988

Re: Ethics Opinion 88-5

Dear :

You have submitted the following inquiry to the Ethics Committee:

You are handling an estate where a creditor is alleging there was a fraudulent conveyance of real estate involving the decedent's homestead to a daughter. You are representing the estate and have no problem with that representation; however, the daughter has asked you to represent her in this case.

The daughter's interest appears similar to the estates inasmuch as they both want the conveyance to be held valid. You inquire as to whether there is anything wrong with your representing both parties after full disclosure and with their express consent.

The general rule is that an attorney may not represent separate parties whose interests are or appear to be in conflict. (DR 5-105(A) and (B), and Model Rule 1.7(a)). However, it is provided that even in the case of conflict, if an attorney determines that the representation of both parties can take place without adverse affect to either client, and both clients give consent, there is no violation. (DR 5-1-5(C) and Model Rule 1.7(a) and (b)).

In the present case, you indicate that the representatives of the estate and the daughter have both consented to joint representation, and their interests are completely aligned with respect to the creditors claim. Therefore, we feel that you may continue to represent both clients until the matter is resolved, or until their interests become antagonistic toward each other,

at which time it would be appropriate to withdraw from
representation of both parties.

Very truly yours,

By:

ML
Robert C. Riter, Jr., Chairman
Ethics Committee