

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-178
Issued: November 1977

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: Attorney, without compensation, obtains for a real estate broker, a listing of real property from an owner who is not a client of the attorney. Owner, when listing is made, is seeking assistance in solving some financial difficulties. Owner pays no fee to the attorney yet attorney helps him with his difficulties. Attorney is not compensated by real estate broker. After listing agreement is entered into, the owner terminates said listing agreement, and litigation ensues. May the attorney who obtained the real estate listing now represent the broker in litigation against the owner?

Answer: No.

References: United States v. Standard Oil Co, 136 F.Supp. 345 (S.D. New York 1955); DR 4-101(A)(B), 5-105; EC 5-14, 5-15

OPINION

It is assumed that the attorney acquired information concerning the owner's financial difficulties and financial status, which may or would necessarily have an effect upon the outcome of the litigation.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.