

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OPINION 89-002

Issued February 17, 1989

[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]

SYLLABUS: A lawyer may share fees with a suspended or disbarred lawyer if the fee-sharing agreement were made prior to suspension or disbarment and the fee is divided on the basis of work performed prior to the suspension or disbarment.

OPINION: We have before us your request for our opinion on a suspended lawyer receiving a percentage of a fee for a referral agreement made prior to the lawyer's suspension. In your request you state that you had done substantial work on the case prior to the referral.

There are several advisory opinions written on this subject. The most recent opinions are clearly on point. "A lawyer who has been disbarred or suspended, or has surrendered his license, may recover for the reasonable value of work done prior to being disbarred or disqualified." Illinois St. Bar Assn. Op. 87-3 (1988). "A lawyer may share contingent legal fees with a disbarred or suspended lawyer who performed work on the case prior to disbarment or suspension." Philadelphia Bar Assn. Op. 86-83 (1986). See also, Iowa State Bar Assn. Op. 85-15 (1986), Pennsylvania Bar Assn. Op. 80-32 (1980), Birmingham Bar Assn. Op. 19 (1982), Bar Assn. of Nassau County Op. 83-5 (1983).

All of these cases clearly state that a lawyer may share fees with a suspended or disbarred lawyer if, the fee-sharing agreement is made prior to suspension or disbarment, and the fee is divided on the basis of work done prior to the suspension or disbarment.

This opinion is advisory in nature, is based upon the facts as presented and is limited to questions arising under the Code of Professional Responsibility.