

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-42
Issued: January 1971

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: May an attorney who represented a corporation and was an officer of the corporation, which transferred its assets to a successor corporation, the transaction handled to a large extent by such attorney, represent the successor corporation in litigation between the successor corporation and the prior owner of the business concern concerning issues relating to the transfer of the assets?

Answer: No.

OPINION

In view of the fact that the office file, as presented with portions of the Court file, shows a long history of representation of the selling corporation, active participation in the transfer, including attorney's signature as secretary of the selling corporation, and the confidences that could have been acquired in regard to the transaction, it is our informal opinion that a conflict of interest situation could appear which would not be to the best interest of the attorney or the organized Bar.

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.