

6. If, after the clients involved have consented, an issue contentious between them or some of them arises, the lawyer, although not necessarily precluded from advising them on other non-contentious matters, would be in breach of the Rule if the lawyer attempted to advise them on the contentious issue. In such circumstances the lawyer should ordinarily refer the clients to other lawyers. However, if the issue is one that involves little or no legal advice, for example, a business rather than a legal question in a proposed business transaction, and the clients are sophisticated, the clients may be permitted to settle the issue by direct negotiation in which the lawyer does not participate. Alternatively, the lawyer may refer one client to another lawyer and continue to advise the other if it was agreed at the outset that this course would be followed in the event of a conflict arising.

Where the Lawyer's Interest in Conflict

7. The same basic considerations apply where the conflicting interest arises not by reason of the lawyer's duties or obligations to another client but by reason of the financial or other interest of the lawyer or the lawyer's associate. For example, the lawyer, or a family member, or a law partner might have a personal financial interest in the client or in the matter in which the lawyer is requested to act for the client, such as a partnership interest in some joint business venture with the client.⁶

Investment by Client where Lawyer has an Interest

8. It is undesirable for a lawyer to represent anyone with respect to the investment by such person in a corporation or other entity in which the solicitor has an interest, other than a corporation or other entity whose securities are publicly traded. At the very least the lawyer must insist that the client receive independent legal advice where the corporation is not publicly traded. If such investment be by way of borrowing from the client, the transaction may fall within the requirements of Rule 7.

9. (a) If the client elects to retain independent legal representation, the lawyer so retained shall act