

**Opinion 74**  
**June 1953**  
**18 Baylor L. Rev. 228 (1966)**

**CONFLICTING INTERESTS - EMPLOYMENT - ESTATES**

An attorney, employed by various creditors of an estate to take out an administration and to collect their claims, may receive fees from the creditors for collecting their claims, and also receive a fee from the estate for reducing an insurance policy to cash as an asset of the estate against the claim of a party who was not an heir or a creditor of the estate.

Canon 6.

**QUESTION**

Shortly after Opinion No. 66 was released by this committee, which opinion was, in substance, that it would be a violation of Canon 6 for an attorney who represents an estate to file a claim on behalf of a third person against the estate and to request an attorney's fee from said estate for the collection of said claim, the following state of facts was submitted for a ruling:

A man dies, leaving debts, largely those of last illness and burial. His heirs decline to take out an administration. Various creditors of the estate employ an attorney to take out an administration, and to undertake to collect their claims. Such attorney takes out an administration, and one of the creditors is appointed as administrator. The principal asset of the estate consisted of an insurance policy, which the attorney was required to reduce to cash in a contest with a third party who was not an heir or creditor of the estate.

Based upon the foregoing state of facts, would it be a violation of the Canons of Ethics for such attorney to receive fees from these various creditors for the collection of their claims, and also to receive a fee from the estate for his services in reducing the insurance policy to cash as an asset of the estate against the claim of the third party who was not an heir or a creditor of the estate?

**OPINION**

It is the opinion of the committee that the above state of facts presents an exception to the rule announced in Opinion 66. The Statutes of Texas clearly give a creditor, or creditors, the right to take out an administration for the purpose of collecting their debts when the heirs decline to do so. This attorney was properly following that procedure, and was representing the creditors throughout. In the collection of the proceeds of the insurance policy on behalf of the estate against the claim of a third party who was not an heir or creditor, there was no conflict in interest. The attorney was properly and effectively representing the interests both of the estate and his real clients, the creditors, and he was entitled to assert a claim against the estate for his fee for such service. (9-0)