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## Opinion No. 21 of the Ethics Committee of the Colorado Bar Association

Dicta Editorial Board

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## BAR BRIEFS

### OPINION NO. 21 OF THE ETHICS COMMITTEE OF THE COLORADO BAR ASSOCIATION

ADOPTED AUGUST 11, 1961

#### SYLLABUS

Persons associated in the same law firm may not ethically charge separate fees as an estate fiduciary and attorney for their respective services to the estate.

#### FACTS

A and B are members (or associates) of the same firm practicing law in Colorado. A client of the firm dies, leaving a will naming A as executor, and A retains B as attorney for the estate. May they ethically charge and receive both an executor's fee and an attorney's fee in connection with the administration of this estate?

#### OPINION

In *Doss v. Stevens* (1899) 13 Colo. App. 535, 59 Pac. 67, our court held that an administrator who is an attorney cannot be allowed compensation for his professional services to an estate as an attorney. The rule of law has never been altered. The court quoted with approval an Illinois case (*Willard v. Bassett*, 27 Ill. 37) stating unequivocally:

The authorities are uniform that this (dual compensation) should not be allowed, and every principle of sound policy forbids it. \*\*\*To allow him to become his own client, and charge for professional services for his own case, although in a representative or trust capacity, would be holding out inducements for professional men to seek such representative places to increase the professional business, which would lead to most pernicious results. This is forbidden by every sound principle of professional morality, as well as by the policy of the law.

In Opinion 49 and 72 the American Bar Association Committee has held:

The relations of partners in a law firm are such that neither the firm nor any member or associate thereof may accept any professional employment which any member of the firm cannot properly accept.

Lawyer A cannot be his own client in these circumstances. Consequently, A cannot be a client of his own firm to the extent that the attorney-client relationship involves payment of attorney fees to his own law firm by A as personal representative of an estate for legal services to him as fiduciary by B.