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**E-80-2 Paralegal at real estate closing\***

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**Question**

May a paralegal, who is a licensed real estate broker, appear at a real estate closing in the office or away from the office, if the file has been previously prepared under the supervision of an attorney?

**Opinion**

It is the committee's opinion that this question must be answered in the negative based on:

“DR 3-101

(A) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.”

Clearly many real estate closings are held where neither of the parties are represented by attorneys of their choice. However, when a client retains an attorney to represent him at a closing, he expects that the attorney will provide him with competent advice so as to protect his interests.

Although it may be inferred from the question that the “real estate closing” would be minerun, this is not necessarily the case in determining the proprieties of the proposed action since considerable amounts of money may be involved. The client has retained an attorney for the express purpose of explaining the many documents that will be involved. Even if the documents have been prepared under the supervision of an attorney, the client is entitled to have the legal effect of the documents explained by his representative. This could be interpreted as the unauthorized practice of law by a layman, a practice considered unethical under DR 3-101.

If the paralegal from the attorney's office appears at the closing, it will *seem* that he is there in a legal capacity. From the client's standpoint, no real estate closing is perfunctory. If it was, he would not wish to have an attorney. It is submitted that it would be a rare closing where no legal questions are raised.

This opinion does not address any ethical questions which the real estate broker may face, as a broker, including questions of disclosure. Nor does it discuss the question of attorney-client confidentiality as it may be affected by a paralegal attending a real estate closing.

Suffice it to say, the question as posed presents a situation which may be harmful to the client involved for the reasons stated. Since the real estate broker may be placed in the position of either rendering legal advice, which would be unauthorized, or electing not to render legal advice, which may be to the client's disadvantage, we conclude that the noted disciplinary rule would apply.