

NEW YORK STATE BAR ASSOCIATION

Committee on Professional Ethics

Opinion #296 - 6/25/73 (22-73)

Topic: Award to law firm by charitable organization for "humanitarian efforts"

Digest: Individual members of firm, but not law firm itself, may receive award for "humanitarian efforts", if non-lawyer connected

Code: EC 2-9, DR 2-101

QUESTION

May a law firm accept an award for its "humanitarian efforts", tendered by a recognized charitable organization and participate in the dinner at which the award will be presented?

OPINION

EC 2-9, the traditional ban against advertising by lawyers, which is subject to certain limited exceptions, is rooted in the public interest. DR 2-101 provides that a lawyer shall not prepare, cause to be prepared, use or participate in the use of, any form of public communication that contains professionally laudatory statements calculated to attract lay clients.

Where publicity is the normal by-product of able and effective service, whether of a professional or non-professional character it is not improper. Drinker, Legal Ethics 218 (1953). What is wrong is for the lawyer to augment by artificial stimulus the publicity normally resulting from what he does, seeing to it that his successes are broadcast and magnified.

ABA Inf. 653 (1963) held that it was improper to have a law firm's name (as distinguished from an individual's name) on a memorial plaque containing the names of all contributors giving a certain sum or more to a hospital drive. The opinion in part stated:

"The difficulty presented by the use of a firm name is that the name itself automatically designates those as lawyers who practice under the name. The firm name only exists for the conduct of the law practice. The persons who compose the firm have their individual names and private lives.

"The Committee does not wish to discourage charitable contributions by law firms. However, we think that public credit for such gifts must be taken by the persons or some of them as individuals who compose the partnership. For the partners to take the public credit in the firm name for the gift, we think, smacks somewhat of self-laudation or commercialism, even though not so intended."

Accordingly, the reasoning of ABA Inf. 653 (1963) that the individual members of the law firm who contribute to the humanitarian efforts may accept such an award, but the law firm may not, is adopted, insofar as non-lawyer connected organizations are concerned. Insofar as lawyer-connected organizations are concerned, firm recognition is permissible. N.Y. State 103 (1969).

In either event, the propriety depends on the absence of circumstances which make the award a vehicle for possible client solicitation.