

**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

OPINION

The Committee's views with respect to the endorsement of judicial candidates by attorneys have been set forth in Opinion No. 11 - 4/23/65 (11-64). The publication of an advertisement listing such endorsements is not improper. However, each attorney listed in the advertisement has the obligation to ensure that his endorsement is not improper for reasons listed in the foregoing opinion and to ensure that the advertisement is in a form not likely to be interpreted as violating the indirect advertisement prohibition of Canon 27 of the Canons of Professional Ethics. For example the Committee would regard as improper the inclusion in the advertisement of attorneys' firm names or addresses.

The publication of an advertisement which identifies a number of attorneys urging the election of a candidate for some office other than a judicial office is not improper provided the individuals listed in the advertisement are all attorneys. In such cases the apparent purpose of the advertisement is to convey the impression that a significant number of the members of one profession support the election of a particular candidate. On the other hand, if such an advertisement lists a number of individuals endorsing a candidate only some of whom are attorneys, the identification of certain individuals as attorneys would be improper. Since the usual purpose of such advertisements is to convey the impression that leading citizens are in accord as to the virtues of particular candidates, the identification of certain of the signers as attorneys is unnecessary and constitutes indirect advertising condemned by Canon 27.

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Opinion #13 - 8/4/65 (2-65)

Topic: Advertising.  
Announcement of Specialization  
and Office Change.

Digest: Lawyer may announce intent to specialize in patent law, and announcement may refer to a particular public office from which lawyer is returning to private practice, but it is improper to mention prior private offices.

Canon: Former Canon 27

QUESTION

A lawyer presently holds the position of patent consultant to a patent holding company, having previously been its general patent counsel, director and executive vice-president. He plans to open his own office, specializing in the field of patents and to send out an announcement in which he would refer to his former positions with the patent holding company and to his former association with a well known patent law firm. Would such an announcement be professionally improper?

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OPINION

In the opinion of this Committee the proposed announcement would not be proper. Under Canon 27 the inquirer may include in an announcement, sent to non-lawyers with whom he has personal relations and to other lawyers, a statement of his intention to specialize in patent law. (Joint Opinion No. 375 of The Association of the Bar of the City of New York and of the New York County Lawyers' Association, No. 375.) An announcement may refer to a particular public office from which the lawyer is returning to private practice but it may not refer to prior private offices or relationships. (Same Joint Opinion and Opinions Nos. 681 and 740 of The Association of the Bar of the City of New York.)

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Opinion #14 -- 9/20/65 (4-65)      Topic: Disclosure of Client's Confidences.

Digest: Lawyer should take steps to see that former client does not successfully perpetrate fraudulent claim, and disclosure of that client's confidences to avoid a crime would be proper.

Canon: Former Canon 37

QUESTION

A lawyer was consulted by a client who claimed to have been a passenger in an automobile involved in a one-car accident. After claim had been made against the operator and also against the owner of the vehicle, the client told the lawyer that the client was not in fact a passenger but was the unlicensed operator of the automobile. The lawyer thereupon advised the client that pursuit of the claim would be a fraud and that the client had no cause of action, advising that the client drop the matter. The lawyer has now been advised by another lawyer that the client seeks the other lawyer's services in pressing the claim.

Concerned by the fact that the information was given him in confidence and by the fact that the client is about to perpetrate a fraud by making a false claim, the lawyer inquires whether he is bound by the confidential communication and prevented from advising the new attorney of the facts and likewise prevented from exposing the fraud if it is continued.

OPINION

In the opinion of the Committee the lawyer should:

- (a) Advise the client in writing that the lawyer is obligated to disclose the true facts and give the client an opportunity to release the claim;
- (b) Failing an acknowledgment that the claim is released, the lawyer should advise the new attorney and the person or persons against whom the claim has been made of the true facts.