

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion #16 - 11/1/65 (5-65) Topic: Advertising.
City Directory.

Digest: Not improper for lawyer to have
name in a simple listing of
lawyers' names, either alphabetically
or classified.

Canon: None

QUESTION

The publishers of a City Directory are soliciting lawyers for the publication of their names, individually or as a firm, in a section of the directory entitled "Index to Advertisers". The names of the subscribers would appear in bold type in a section of the directory devoted to advertisements which include, among other things, advertisements from various types of business concerns.

In another section of the directory entitled "Classified", all lawyers in the City are listed.

May an attorney properly permit his name to be published in the Directory?

OPINION

It is improper for a lawyer to permit his name to be listed as a lawyer in any directory other than one listing only the names of lawyers and approved by the Standing Committee on Law Lists of the American Bar Association. This does not prohibit the simple listing of a lawyer's name in an alphabetical or classified directory under the general heading of "Lawyers" or "Attorneys-at-Law". (See American Bar Association Opinion No. 286.) In such a directory the lawyer's name may not be listed in bold face type, (See American Bar Association Opinion No. 428), nor can it be listed in an index of advertisers or with names of persons engaged in other business or professions except in a simple unclassified alphabetical list, like a telephone or city directory.

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Opinion #17 - 11/1/65 (8-65) Topic: Advertising.
Publication of Biographical Data.

Digest: Improper for biographical and
specialization data to appear in
publication which is not an approved
law list.

Canons: Former Canons 43, 46

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QUESTION

A lawyer, a member of this Association, has submitted to the Committee the following information concerning a proposed biographical publication. The publishers have advised him that he has been nominated for inclusion and state that this volume has been borne of a desire to create a permanent and enduring record of living Americans whose dedication and strength of purpose provide the spirit, the industry and the means whereby America's greatness is perpetuated as a nation; that inclusion in the volume is contingent on merit alone and that no fee or payment of any kind is required. Their letter also makes a special offer to each individual who is included, namely, the right to receive a handsome, personalized citation, suitable for framing, for \$5.00. An enclosed order blank give pre-publication prices for the book, ranging from \$47.50 to \$79.50, depending on whether the lawyer orders an ordinary edition, a special edition, or a deluxe edition.

The research department of the publication has assembled facts regarding the lawyer's family, education, membership in Bar Associations, and the like, and a questionnaire tentatively filled out by the lawyer, but not filed pending review by this Committee, shows his membership in the American Bar Association and the New York State Bar Association and his chairmanship and membership in a number of Bar Association committees dealing with the field of insurance; also his past employment with five well-known insurance companies and with the insurance department of a very large corporation, and his holding of an important public position. His home and office telephone numbers and addresses are requested by the publisher (but not for publication).

It does not appear who nominated the lawyer for inclusion in the volume, and it does not appear whether the lawyer's name, picture and biography will be included in the volume if he does not subscribe.

The attorney is requested to review, correct and supplement the data which the publishers have assembled and to authorize its publication, together with his photograph, in the proposed volume.

Would it be ethically proper for the lawyer to authorize such publication of biographical data and of his photograph?

OPINION

It is the opinion of the Committee that it would be professionally improper for the lawyer, in the context stated, to authorize the proposed publication of biographical data with his photograph. In the first place, it borders on advertising of an specialized legal service, in violation of Canon 46. The volume is not an approved Law List referred to in Canon 43, nor a Law List as defined in the Rules and

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Standards of Law Lists of the American Bar Association, nor is it one of the specific directories listed in a recent "Caution on Law Lists" issued by this Committee, for inclusion in which directories members were presently being solicited, (Drinker, page 365). Even if it were a Law List, the inclusion of biographical data referring to the specialty of the lawyer would not be approved. There is little or nothing in the suggested biography of general interest to the public or to lawyers except a listing of the lawyer's experience in the field of insurance.

The purchase of a "handsome, personalized citation, suitable for framing, for \$5.00", if it should be hung or exhibited in the lawyer's office, would seem to be in bad taste.

In American Bar Association Opinion No. 207, it was held that it would be unethical for a lawyer to subscribe to a publication entitled "One Hundred Professional Men and Women of Helena [Montana], Doctors, Dentists, Judges, Lawyers", where only the name of lawyers would be included who had paid \$15, for which they would receive 15 copies.

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Opinion #18 - 11/1/65 (9-65)

Topic: Advertising.
Professional Directory.

Disapproved in part by 265

Digest: Classified and alphabetical listing of attorney is proper so long as there is no reference to a specialization other than the traditional specialties of the bar.

Canon: None

QUESTION

May an attorney properly permit publication of his name in a "business or professional directory" issued by a local Chamber of Commerce of which he is a member?

The directory contains two parts (a) a list of members, classified by business or profession, and (b) an alphabetical list of members. In the classified portion, there appears a heading "attorneys and counselors-at-law" under which the names of the attorney members are listed without address or comment.

In the alphabetical part of the directory, the names of lawyers appear with those of lay members with addresses and telephone numbers followed by such words as "general law practice", "lawyer" or "attorney".