OPINION

The practice contemplated by this corporation falls within the purview of Canon 27 relative to Advertising, Direct or Indirect.

In 1951, the American Bar Association amended Canon 27 as applied to proctors in admiralty and patent attorneys to read as follows:

> "It is not improper for a lawyer who is admitted to practice as a proctor in admiralty to use that designation on his letterhead or shingle or for a lawyer who has complied with the statutory requirements of admission to practice before the patent office to so use the designation 'patent attorney' or 'patent lawyer' or 'trademark attorney' or 'trademark lawyer' or any combination of those terms."

The New York version of Canon 27 does not contain these exceptions for admiralty and patent lawyers. However, in our opinion, the proposed practice is not violative of this Canon. This is especially true in the case of use of titles by lawyers who work exclusively for the corporate legal department of a corporation where such use does not constitute direct or indirect advertising. In Opinion No. 285 (dated September 4, 1951) the Committee on Professional Ethics and Grievances of the American Bar Association stated "....Of course, in case of counsel employed only by the corporation or association, no question of advertising would be presented...."

We leave the suggestion of requesting an opinion from other bar associations to the discretion of the inquirer.

See Opinion No. 21 - 12/20/65 (10-65) of this Committee.

Opinion #25 - 2/9/66 (15-65)

Topic: Compromise of Prior Client's Confidences.

Digest: Improper for lawyer to undertake suit against former client where client's secrets or confidences might be divulged.

Canon: Former Canon 6

QUESTION

An attorney who represented a self-insured client in the defense of a claim for personal injuries arising out of the condition of premises is later asked to represent a plaintiff in a second and unrelated accident making claim against the former client. The attorney inquires whether:

(a) he may undertake the suit against his former client, and

(b) if so, may he properly make use of the file of the plaintiff in the original action, through the attorney in that suit?

OPINION

The Committee believes that the answer to question (a) is "no".

Canon 6, in part reads:

"The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidence forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed."

Although it is clear that the two accidents are unrelated, and that the facts as to the first were made public by the filing of a notice of claim in a public office, it is also clear that both accidents occurred by reason of the same defect in the premises. Under such circumstances the language in In Re Boone 83 Fed. 944, at 952-3, seems appropriate:

"The test of inconsistency is not whether the attorney has ever appeared for the party against whom he now proposes to appear, but it is whether his accepting the new retainer will require him, in forwarding the interests of his new client, to do anything which will injuriously affect his former client in any matter in which he formerly represented him, and also whether he will be called upon, in his new relation, to use against his former client any knowledge or information acquired through their former connection."

On the subject generally, see:

Drinker - pg. 104
Opinions, N.Y.Co. Lawyers' Assn., #350,220,119.

Question (b) becomes academic.

Opinion #26 - 2/9/66 (17-65)

Topic: Dual Practice.
Business Feeder for Law Practice.

Overruled (in part) by 493

Digest: Improper for lawyer to use his name in real estate business and to conduct both activities from the same office.

Canons: Former Canons 27, 33, 34, 47