

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion

Opinion #53 - 3/31/67 (2-67)

Harmonized by 53(a)

Topic: Intermediary.  
Free Advice to Employees of  
Lawyer's Corporate Employer.

Digest: Improper for lawyer to give free  
legal advice to employees of  
lawyer's corporate employer.

Canon: Former Canons 35, 47

QUESTION

1. Is it ethical for an attorney to render free legal advice to employees of a corporation when his fee for services is paid by the corporation?

2. If it is ethical, may the corporation notify its employees that the services of such attorney, who is to be located temporarily in the corporate premises, are available to them free of charge (except as to more complicated matters) and that the employees may visit such attorney during working hours?

OPINION

Question 1.

The Committee is of the opinion that the conduct inquired about would be professionally unethical.

Canon 35 of the Canons of Professional Ethics states in part that:

"A lawyer may accept employment from any organization such as an association club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs."

The purpose of this Canon is to insure that an attorney's relationship to his client is personal, that he be directly responsible to the client and not at the control of any lay intermediary. It has been held that an attorney on retainer to a teacher's organization could not represent or give legal advice to members as to their individual problems unrelated to their professional status. In fact, he could not give legal advice to such members even as to problems affecting their professional status unless these problems were common to all the members. (See Opinion 363 of the Committee on Professional Ethics of the New York County Lawyers Association.)

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Again, the question was raised where certain attorneys rendered opinions to a manufacturers association for inclusion in bulletins issued to its members. In Opinion 273 of the Committee on Professional Ethics of the American Bar Association, it was held that attorneys could not render legal services to members of the association in respect to their individual affairs as distinguished from general dissertations on problems common to all. (See also, Drinker, Legal Ethics, pages 162-3, wherein Canon 35 is discussed.)

Furthermore, the activities about which inquiry is made violate Canon 47 which prohibits an attorney from aiding the unauthorized practice of law by any lay agency, personal or corporate. The American Bar Association Committee on Unauthorized Practice has ruled that a corporation may not properly retain a lawyer to render legal services for its employees since such procedure would aid the corporation in an unauthorized practice of the law. (See 36 A.B.A. Journal 677; see also A.B.A. Opinion 273, supra.)

Question 2.

Question 1 having been answered in the negative, it is unnecessary to proceed to a consideration of Question 2.

Opinion #53(a) - 10/16/67 (21-67) Topic: Intermediary.  
Free Tax Advice to Employees of  
Lawyer's Corporate Employer.

Harmonizes #53

Digest: Improper for lawyer to give  
free tax accounting advice to  
employees of lawyer's corporate  
employer.

Canon: Former Canons 35, 47

QUESTION

Is it ethical for an attorney to render free tax accounting to the employees of a corporation when his fee for services is paid by the corporation?

OPINION

The Committee is of the opinion that the conduct inquired about would be professionally unethical.

This question involves clarification of an earlier opinion [Opinion #53 - 3/31/67 (2-67)] wherein the Committee was asked: