

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion #114-9/18/69 (22-69)

Overruled (in part) by 493

Topic: Indirect advertising
Digest: Attorney wishes to conduct
real estate and interior
decorating business from same
office where he practices law.
Canon: *Former Canon 27*

QUESTION

An attorney owns adjacent buildings. He has his own law office in building A and an associate's law office in building B. May he conduct a corporate real estate practice as well as an interior decorating business in building B? In so conducting his business he would have a joint waiting room for both the law office and the other business with a single receptionist handling both clients and customers.

OPINION

It would be improper for an attorney to operate both businesses under the circumstances as outlined in the question.

It has been held that a lawyer may properly conduct a real estate business (See Drinker on Ethics, p. 225 and numerous opinions cited therein). These opinions make it clear that the real estate business must be independent and not a cloak to feed his law practice. In ABA Informal Opinion 775 - 2/15/65 the following criteria were established by the Committee for this situation:

(1) If a separate business is clearly not necessarily the practice of law when conducted by a lawyer, and

(2) If it can be conducted in accordance with and so as not to violate the Canons, and

(3) If it is not used or engaged in in such a manner as to directly or indirectly advertise or solicit legal matters for the lawyer as a lawyer, and

(4) If it will not "inevitably serve" as a feeder to his law practice, and

(5) It is not conducted in or from a lawyer's law office, except in cases where the volume of the law practice and business is so small that separate quarters foreither is not economically feasible and where, even in such cases, there is no indication on the shingle, office, door, letterhead or otherwise that the lawyer engages in any activity therein except the practice of law

Informal ABA Opinion 931 5/7/66 reiterates the Committee's position with respect to a small community practice.

It is the feeling of the Committee that to conduct the real estate and interior decorating business under the conditions outlined in the question would not meet the criteria outlined in these opinions. (See also N.Y.State 26.)