

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

as not to imply to the public that it is intended to constitute advertisement for professional employment. He should see to it, so far as possible, that the article as published carries out his instructions . . .

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A lawyer may properly review an article submitted in advance of publication, and he should not only correct any inaccuracies but should insist upon the elimination of material not in good taste. It would be the duty of a lawyer to discourage the publication of an article where he knew in advance that it was sensational or undignified or might be construed as advertising, and he should give no aid in its preparation. On the other hand, it is not incumbent upon a lawyer publicly to disclaim or deprecate all such published statements which may have been made concerning him, at least unless such statements are very blatant and made under circumstances which might convey the idea that they were inspired by him . . .

Thus the propriety of a lawyer's cooperation with an alumni magazine proposing to publish an article about his firm depends on the purpose of the article, the nature of the article, the occasion of the publication, its tone, and the absence of self-laudation. Where the lawyer has in no way instigated an article which fully meets traditional standards of dignity and appropriateness, his cooperation would not be improper.

Opinion #158 - 10/9/70 (35-70)

Topic: Can a Judge Own an Interest in an Entity that Sells Liquors at Retail or at a Bar?

Digest: A judge may own such an interest if it is legal and the nature of such interest does not detract from the dignity of his position.

Code*: EC 8-8; EC 9-2
DR 8-101 (A); DR 9-101

QUESTION

The State Liquor Authority, in interpreting Section 128 of the Alcoholic Beverage Control Law, excludes judges from holding an interest in an entity that sells alcoholic beverages.

Is it unethical for a judge to have an interest as stockholder or otherwise in a corporation holding a retail on premises license to sell liquors and wines?

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OPINION

It would be unethical for a judge to hold such an interest if it is illegal, or if the nature of his interest or the nature or reputation of the establishment where the beverages are sold are such as to detract from the dignity of his position, or if there is any possibility of a conflict. Otherwise, such ownership would not be unethical.

Opinion #159 - 10/9/70 (27-70)

Topic: Advertising.
Chamber of Commerce.

Digest: A law firm or individual members or associates may become members of a Chamber of Commerce.

Code*: EC 2-9
DR 2-102
Former Canon 27

QUESTION

May a law firm or any of its members or associates become a member of a Chamber of Commerce

OPINION

It is not unethical for an individual lawyer or his firm to belong to a Chamber of Commerce and to permit his name to be included in its membership list without identifying him as a lawyer. DR 2-102 forbids advertising but in view of the general character of chambers of commerce as a community service organization, membership by lawyers is not deemed to be advertising. ABA Informal #C-488 (1961).

With regard to identification of the lawyer as such in lists issued by the Chamber of Commerce, see N.Y. State 81 (1968) and ABA Informal 816 (1965).

Participation of the lawyer in Chamber of Commerce activities must not be used to advertise his services as a lawyer or to solicit business from fellow members or from the public.

Opinion #160 - 10/9/70 (37-70)

Topic: Communication with Adverse Party.

Digest: Attorney may not contact adverse party after the designation of counsel.

Code*: DR 7-104 (A) (1)
Former Canon 9

QUESTION

Does the Code of Professional Responsibility, DR 7-104 (A) (1), permit a lawyer to communicate with an adverse party who is a public officer or board member?