

**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

QUESTION

May an attorney display a certificate in his office certifying that he is an approved attorney or agent of a title insurance company?

OPINION

Display of a certificate, certifying an attorney as approved or as an agent of a title company or any other commercial organization would be improper even though the certificate appears in the lawyer's office only. ABA Inf. 716 (1963); ABA 304 (1962). Such certificates appear to be endorsements and their display is improper self laudation and undignified. They are distinguishable from certificates of honor or from certificates of membership in bar associations and similar organizations.

Opinion #167 - 11/6/70 (44-70)

Topic: Professional Impropriety;  
District Attorneys.

Digest: Ethically improper for  
District Attorney's office  
to sponsor a golf and dinner  
outing for judges and lawmen.

Code\*: Canon 9  
EC 9-1, EC 7-35, EC 7-36,  
EC 7-34

QUESTION

The District Attorney's Office of a metropolitan county sponsors annually a golf and dinner outing solely for area judges and lawmen. The event received publicity in a newspaper of general circulation in the area. The County Bar Association has inquired whether said activity is in violation of the Canons of Ethics.

OPINION

It is ethically improper for a District Attorney's office to sponsor a golf and dinner outing solely for judges and lawmen.

Lawyers should avoid even the appearance of professional impropriety. The public must have faith that justice can be obtained through our legal system. Lawyers should promote public confidence in our system. Canon 9, EC 9-1.

All litigants and lawyers should have access to tribunals on an equal basis. EC 7-35. A lawyer should not lend himself to private importunities with a judge. EC 7-36. A lawyer should avoid any other conduct calculated to gain special consideration.

Canon 3 provides in part: "marked attention and unusual hospitality on the part of a lawyer to a judge, uncalled for by the personal relations of the parties, subject both the judge and the lawyer to misconstructions of motive and should be avoided".

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To permit this activity would give the impression to the public that the Judiciary and law enforcement agencies are not totally separate and impartial departments. This in turn might give rise to the conclusions that a defendant would not secure a fair and completely objective trial and lessen respect for the judicial system.

Opinion #168 - 11/6/70 (48-70)      Topic: Confidential Communications.

Digest: Obligation of lawyer of executor-client misappropriating estate assets depends on whether restitution is made.

Code\*: Canon 4  
EC 4-1, 4-2, 4-4  
DR 4-101(B) and (C),  
DR 7-102 (B) (1).

QUESTION

A lawyer is retained by an executor for an estate to handle the legal work involved in administering the estate. While preparing the accounting to be filed with the surrogate's court, the lawyer discovers an apparent misappropriation of funds belonging to the estate. In response to questions from the lawyer, the executor admits the misappropriation. The lawyer advises the executor that he must reimburse the estate. The executor agrees to do so and makes full restitution before filing his accounting with the surrogate's court. Now that restitution has been made, is the lawyer under any obligation to inform the surrogate of the executor's wrongdoing?

OPINION

Once full restitution has been made, the obligation to preserve the confidences and secrets of the client, imposed by Canon 4, EC 4-1 and 4-4, and DR 4-101(B), precludes the lawyer from revealing the executor's wrongdoing. A lawyer may properly disclose confidences and secrets of a client only under the mandate of a specific disciplinary rule, such as DR 7-102(B) (1) [refusal to rectify a fraud], or in the circumstances specified in EC 4-2 [consent of client or required by law], and DR 4-101(C) [intention to commit a crime].

Opinion #169 - 11/6/70 (49-70)      Topic: Directories;  
Advertising.

Digest: Proposed publication and distribution would be proper if certified by the American Bar Association and specialties are omitted.

Code\*: EC 2-9, EC 2-10, EC 2-14  
DR 2-101(A); DR 2-102(A) (6),  
DR 2-103(A), DR 2-105.