

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

QUESTION

May a roster of members of an organization composed of judges and court personnel, all of whom are attorneys, which will be distributed only to members of such an organization for their sole use, indicate the specializations of each member?

OPINION

It is the opinion of the Committee that the proposed publication and distribution would be proper only if it omitted reference to the specialities of the members.

"Reputable law lists" may include the lawyer's name, address, biography and "branches of his profession practiced". The American Bar Association certified law lists which its Special Committee on Law Lists believes to be "reputable". The membership directory of the association in question is not a law list.

DR 2-105 (A)(2) allows for publication of brief dignified notice of the fields of law in which an attorney will accept referrals.

New York State has no provision for certification of a lawyer as a specialist in a particular field of law as provided for in DR 2-105(A)(4). EC 2-14 of the Code provides as follows:

"In some instances a lawyer confines his practice to a particular field of law. In the absence of state controls to insure the existence of special competence, a lawyer should not be permitted to hold himself out as a specialist or as having special training or ability, other than in the historically excepted fields of admiralty, trademark, and patent law."

The membership directory in this case is not a legal periodical or a publication which may list areas of referrals.

See N.Y. State 62 (1967).

Opinion #170 - 11/6/70 (51-70)

Topic: Advertising;
Professional Card.

Digest: May employee of Search
Organization identify self on
professional card as attorney.

Code*: DR 2-102 (E), DR 2-102 (F).

QUESTION

May a full time employee of a professional search organization dealing primarily with the placement of lawyers use on his business card characteristics such as, attorney at law or esquire, identifying his legal training and qualification.

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OPINION

Provided the search organization employee does not engage in the practice of law to any extent whatsoever, it is not improper for him to use on his business card his earned degree or degrees or title derived therefrom indicating his training in the law. DR 2-102(F). If he were to practice law to any extent, his business card could not identify himself as a lawyer. DR 2-102(E).

It is recommended that his card also indicate his position with the search organization so as to negate any possible interpretation that he is a practicing attorney or general counsel to his employer.

Opinion #171 - 11/6/70 (52-70) Topic: Conflict of Interest;
Part-time District Attorney.

Digest: Not proper for a part-time district attorney to represent an infant in a juvenile delinquency proceeding.

Code*: Canon 9
EC 9-2
DR 9-101

QUESTION

May a part-time district attorney who is a partner in a law firm or his partners, represent an infant defendant accused of juvenile delinquency in the Family Court?

OPINION

It is the opinion of the Committee that it would be improper for the part-time district attorney or his partners to represent the infant in a juvenile delinquency proceeding in the Family Court. The juvenile delinquency proceeding in the Family Court is a criminal proceeding. Since the part-time district attorney in fact is the representative of the people on many occasions, his representation of the defendant would give the appearance of impropriety in violation of Canon 9. See also EC 9-2; DR 9-101; Drinker, "Legal Ethics" p. 118 (1953); ABA Inf. 922 (1966); and N.Y. State 130 (1970).

Opinion #172 - 11/6/70 (54-70) Topic: Non-profit Association;
Group Legal Services.

Digest: Lawyer may not cooperate with religious association plan to furnish members legal services with respect to matters that are not reasonably related to the members' relationship with the religious organization.

Modified by 416