

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions

Accordingly, an attorney may with propriety accept an independent retainer from a client who seeks his services as a result of finding his name on an approved law list. Where an attorney may permit his name to be included in a law list certified by the American Bar Association, it would be an unrealistic rule to say that he could not accept clients that come to him as a result of such listing.

Opinion #195 - 9/30/71 (28-71) Topic: Advertising; Solicitation;
Circularizing the Profession
To Secure Divorce Matters

Digest: An attorney may not circularize the profession advising attorneys of easy divorce laws and soliciting divorce matters from them.

Code*: DR 2-102(A); DR 2-103(C);
DR 2-105(A) (3)

QUESTION

May attorneys send letters to members of the bar informing them of the ease with which divorces may be obtained in a certain foreign nation, offering the opinion that such divorces would be valid in New York, and setting forth the arrangements already made in the foreign jurisdiction, the fee that the lawyers would charge, the cost of air travel and hotel accommodations?

OPINION

It should be noted that the General Business Law §337 makes it a misdemeanor to distribute any notice of any kind offering to advise on laws of any foreign nation for the express purpose of aiding in procuring any divorce, or offering to act as an attorney in any suit for divorce, whether in this state or elsewhere. This Committee does not pass on questions of law and therefore does not undertake to determine whether this statute is applicable to the kind of solicitations under consideration. Even in the absence of the statute the letters are improper.

All solicitations and advertising are proscribed except as expressly permitted, DR 2-102(A); DR 2-103(C). The exception contained in DR 2-105(A) (3) is as follows:

"A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once in a calendar year, but it may be published periodically in legal journals."

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The communications under consideration violate the provisions of DR 2-105 (A) (3) in several respects. Thus:

While matrimonial law generally may perhaps be considered a "particular branch of law or legal service", purported expertise in obtaining divorces in a particular jurisdiction does not fall within such category. Solicitation to obtain retainers to procure such divorces is therefore improper.

Although a "dignified announcement" is permitted, the announcement sent to lawyers must meet the same standard as an announcement published in legal journals. The letters under consideration fail to meet those standards. The quotation of legal fees, air fares, accommodations available, in one case special hotel rates for the attorney's clients, and the like, is undignified.

The letters fail to come within the exception as they suggest that the writers have special experience with the divorce laws of the foreign country and special competence to handle divorces therein because of prior arrangements that they have made with attorneys resident in, or members of the bar of, the foreign country.

Opinion #196 - 9/30/71 (30-71) Topic: Newspaper Publicity

Digest: Newspaper "releases" of
attorney attending professional
meeting improper

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

QUESTION

May a lawyer attending a seminar, symposia convention, or other professional meeting release or cooperate in the furnishing of information as to his attendance to a newspaper?

OPINION

The question must be answered in the negative.

EC 2-2 provides:

"The legal profession should assist laymen to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers acting under proper auspices should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. Such educational programs should be motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers. Examples of permissible activities include preparation of institutional advertisements and professional articles for lay publications and participation in seminars, lec-