

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinions

tures, and civic programs. But a lawyer who participates in such activities should shun personal publicity."

DR 2-101 (A) provides:

"A lawyer shall not prepare, cause to be prepared, use, or participate in the use, of any form of public communication that contains professionally self-laudatory statements calculated to attract lay clients; as used herein, 'public communication' includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, magazine, or book."

Past opinions permitting a release do not conflict with EC 2-2 as they concern the lawyer who is a major participant in the seminar or other activity and who would otherwise "shun personal publicity", but who may permit his name to be used if "motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers." ABA Inf. 840 (1965); ABA Inf. 1135 (1970).

An attorney may not promote, inspire, or encourage a newspaper to publish a report regarding his individual attendance at a conference or symposium on a particular field of law, emphasizing the name of the lawyer, the importance of the field of law and the importance of skill in such field. N.Y. State 100 (1969)

The Code did not change Matter of Connelly, 18 A.D. 2d 466, 478, 240 N.Y.S. 2d 126, 138, (1st Dept. 1963) which stated in part:

"There can be no justification for the participation and acquiescence by an attorney in the development and publication of an article which, on its face, plainly amounts to a self-interest and unethical presentation of his achievements and capabilities.... What is wrong is for the lawyer to augment by artificial stimulus the publicity normally resulting from what he does, seeing to it that his successes are broadcast and magnified."

Opinion #197 - 9/30/71 (31-71)

Topic: Non-lawyer Town Justice;  
Candidacy for other Elective  
Office.

Digest: A Non-lawyer Justice of the Peace  
may not seek other elective  
office without first resigning  
as Justice of Peace.

Canons of Judicial Ethics: 30.

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QUESTION

May a non-lawyer Town Justice accept a political nomination and actively campaign for a non-judicial elective office without first resigning from his judicial office?

OPINION

Canon 30 of the Canons of Judicial Ethics provides:

"While holding a judicial position, he should not become an active candidate either at a party primary or at a general election for any office other than a judicial office".

This Committee in 1966 reviewed Canon 30 and its application to incumbents of part-time judicial offices who might wish to run for a political non-judicial office and concluded that it would recommend no modification of the Canon, N. Y. State 30 (1966). We find no reason to modify our former opinion. See, ABA 193 (1939).

Accordingly, a non-lawyer Town Justice may not accept the nomination and actively campaign for an elective non-judicial office without first resigning from his judicial office.

Opinion #198 - 9/30/71 (32-71) Topic: Minimum Fees

Digest: Minimum fee schedule is only a guide.

Code\*: DR 2-106(B); EC 2-18

QUESTION

Is the attorney for a bank bound to follow the minimum fee schedule in determining his fees for services performed in the collection of accounts in large volume?

OPINION

Minimum fee schedules are only to be used as guide in determining an attorney's fees. Drinker Legal Ethics 175 (1953); Wise. Legal Ethics 230 (2nd ed. 1970); ABA 323 (1970); N.Y. State 8 (1965); EC 2-18.

The fee customarily charged in the locality for similar services has long been recognized as one element to be considered in determining a proper fee. DR 2-106 (B) (3). Where the customary minimum charge is reflected in a fee schedule, it is proper for a lawyer to take this into account along with other elements in fixing his fee.