



Committee on Professional Ethics

Opinion #307 - 10/17/73 (37-73)

Topic: Dual practice of law and
consumer counseling service.

Digest: A lawyer may conduct a
consumer counseling service
at a separate address under
the guidelines

Code: Canon 9
DR 2-101, 2-102, 2-102(E),
2-103, 2-104, 2-105,
3-101, 3-102, 3-103,
5-101(A).

QUESTION

May a lawyer be a principal, officer and employee of a consumer counseling corporation operating from an office located at an address different from his law office address where the consumer counseling business would offer for a fee a number of consumer oriented services including budgeting advice, insurance counseling, consumer purchase counseling, consumer credit counseling, Social Security, Medicare and Medicaid assistance, and advice concerning educational loan programs, and where advertisements by the counseling service would not refer to the fact that an attorney is involved in the corporation and no client of the corporation would be accepted as a client of the lawyer?

OPINION

It is not improper for a lawyer to carry on an independent business at a separate address if the guidelines set forth in N.Y. State 206 (1971) are followed. That opinion considered the ethical problems presented by the dual practice of law and another business by a lawyer and stated, after quoting DR 2-102(E):

"By implication this would appear to permit a lawyer to practice law and simultaneously engage in any other respectable business or profession subject, however, to the restrictions stated and any other relevant restrictions in the Code.

"The basic requirement of this rule is that letterheads, office signs, and professional cards may not be used to publicize simultaneously both a law practice and another business or profession in which the lawyer may be engaged. Similarly advertisements, and publications of any kind used in the other occupation may not identify a lawyer participant in the business or profession as a lawyer, with the narrow exceptions permitted by DR 2-101(B)(3). The fundamental principle behind these limitations is to protect the public and the profession against improper solicitation, advertising or commercialization, and to keep the other occupation

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from being used as a cloak for improper solicitation or from being deliberately used as a direct or indirect feeder of legal work."

The proposed business of consumer counseling falls at least in part within the category referred to in N.Y. State 206 (1971) of "Related Occupations", i.e., those occupations that "would be likely to involve frequent solution of problems that are essentially legal in nature". In these circumstances, care should be exercised to maintain a clear separation between the lawyer's legal practice and his other business. If this is done, and the lawyer follows the guidelines of N.Y. State 206 (1971), including compliance with DR 2-101, 2-102, 2-103, 2-104, 2-105, 3-101, 3-102, 3-103 and 5-101(A), and bears in mind that Canon 9 provides that "a lawyer should avoid even the appearance of professional impropriety", he may properly engage in the consumer counseling business.
