



Committee on Professional Ethics

Opinion #426 - 2/10/76 (116-75) Topic: Lawyer referral service.

Digest: Improper for an attorney associated with the direction or administration of a lawyer referral service to accept referrals from the service.

Code: DR 2-103(C) & (D), 5-105(D);
EC 2-8, 9-6

QUESTION

May an attorney actively associated with the direction or administration of a lawyer referral service or members of his firm accept referrals from the service?

OPINION

Assuming the lawyer referral service is operated in accordance with the provisions of the Code, it would, nevertheless, be improper for an attorney who is actively associated with the direction or administration of the service to accept referrals from such service. Where an attorney is actively participating in the direction or administration of a referral service, the recommendation of that attorney for acceptance of referrals gives the appearance that he is promoting the use of his own professional services rather than serving the best interests of the layman who seeks legal assistance. The kind of recommendation contemplated under the exception to DR 2-103(D) is indicated in EC 2-8, which provides in part:

"A layman is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment."

Accordingly, the referral of a matter to an attorney associated with the administration of the service would not appear to be within the exception to DR 2-103(D). Therefore, DR 2-103(D) would appear to prohibit not only the attorney but also any member of his firm from accepting referrals from the service. An attorney should "strive to avoid not only professional impropriety but also the appearance of impropriety". EC 9-6. See also, DR 2-103(C); DR 5-105(D).

A long series of opinions in a variety of situations have endorsed the rule that where a lawyer is required to decline employment, no partner or associate of his or his firm may accept such employment. N.Y. State 419 (1975); N.Y. State 410 (1975); N.Y. State 365 (1974); N.Y. State 344 (1974); N.Y. State 323 (1974); N.Y. State 313 (1973); N.Y. State 278 (1973); N.Y. State 274 (1972); N.Y. State 260 (1972); N.Y. State 258 (1972); N.Y. State 257 (1972); N.Y. State 254 (1972); N.Y. State 243 (1972); N.Y. State 234 (1972); N.Y. State 227 (1972);

N.Y. State 203 (1971); N.Y. State 199 (1971); N.Y. State 82 (1968);
N.Y. State 40 (1966); cf. United States v. Standard Oil Co., 139 F.
Supp. 345 (SDNY 1955); People v. Wilkins, 28 N.Y. 53 (1971); N.Y.
State 415 (1975); N.Y. State 361 (1974).
