



Committee on Professional Ethics

Opinion #442 - 8/26/76 (58-76) Topic: Advertising.

Digest: Improper for attorneys to operate a school whose purpose is to give laymen an introduction to Bankruptcy Law and instruction on preparing bankruptcy petitions and schedules for themselves

Code: EC 2-1, 2-2, 2-4
DR 2-102, 2-104, 6-102.

QUESTION

May an attorney operate, on his own without outside sponsorship, a school to give laymen an introduction to the Bankruptcy Law and instruction on how to fill out bankruptcy petitions and schedules so that students may proceed pro se?

OPINION

N.Y. State 283 (1972) set forth the guidelines which define the appropriate limits for attorney participation in educational programs designed for laymen. Therein it was decided that lawyers may participate in an educational program so long as such program is properly run. However, the guidelines require that such an education program must:

- a) "... have as its purpose the imparting of information to the participants, that is, its purpose must be educational in nature. It is improper for a lawyer to participate in a seminar the main purpose of which is to publicize, or make money for its sponsors, the lawyers, or others."
- b) "... be sponsored by a bar association, school or other responsible public or private organization. It is improper for a lawyer to participate in a seminar sponsored by an organization lacking in complete responsibility."
- c) not allow "an attorney to answer questions of laymen concerning their specific individual problems."

See ABA Inf. 840 (1965).

Measured against the yardstick of these guidelines, the proposed school does not fall within proper limits. The question of sponsorship is one of the central considerations. While attorneys may properly receive compensation for participation in educational programs, N.Y. State 283 (1972), ABA Inf. 1021 (1968), the opening of a school by lawyers as lawyers acting independently of any responsible sponsoring organization in these circumstances goes beyond permissible limits. It smacks of an effort to avoid the present strictures against advertising and of an effort to avoid the attorney's professional responsibility for individual counseling. DR 2-102, EC 2-4, DR 6-102. The latter conclusion

is given particular credence by the stated purpose of the proposed school - to educate individuals to proceed pro se. Further, it seems highly improbable, given the complexities of Bankruptcy Law and procedures, that individual counseling could be avoided entirely. It seems equally unlikely that lawyers operating such a school could hide the fact that it will be run by attorneys, for surely this would be one of its greatest attractions. These problems could not be cured simply by prohibiting attorneys operating such a school from accepting legal employment offered by students who feel the need for individual advice. See DR 2-104, and the limited exceptions permitted therein.

We are mindful of the attorney's obligation to educate laymen to recognize legal problems and to facilitate the process of intelligent selection of counsel when required. We are also mindful of the attorney's obligation to encourage and participate in educational programs concerning our legal system and legal problems that frequently arise. However, the Code specifically reminds us that such activities "should be motivated by a desire to benefit the public rather than obtain publicity or employment for particular lawyers." EC 2-1, EC 2-2. Therefore, under the circumstances here presented, it would be improper for attorneys to operate a school to give laymen an introduction to Bankruptcy Law and procedures.
