



Committee on Professional Ethics

Opinion #452 - 12/10/76 (108-76) Topic: Bar association sponsored consumer legal directories.

Digest: Bar associations may publish consumer legal directories for public distribution.

Code: DR 2-102; 2-102(A)(6)

QUESTION

May a state, county or local bar association publish a "consumer law directory" intended for wide public distribution to non-lawyers?

OPINION

DR 2-102(A)(6) permits lawyers and law firms to use a "dignified ... listing in a reputable law list or legal directory giving brief biographical and other informative data" only when (a) the list or directory and (b) the information contained therein, both satisfy all requirements of DR 2-102. Subdivision (A)(6) further provides:

"A law list or directory is not reputable if its management or contents are likely to be misleading or injurious to the public or to the profession. A law list is conclusively established to be reputable if it is certified by the American Bar Association as being in compliance with its rules and standards. The published data may include only the following: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the lawyer or law firm concentrates; a statement that practice is limited to one or more fields of law; a statement that the lawyer or law firm specializes in a particular field of law or law practice but only if authorized under DR 2-105(A)(4); date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public or quasi-public offices; military service, posts of honor; legal authorships; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; memberships and offices in legal fraternities and legal societies; technical and professional licenses; memberships in scientific, technical and professional associations and societies; foreign language ability; names and addresses of references, and with their consent, names of clients regularly represented."

On February 17, 1976, the American Bar Association amended DR 2-102(A)(6) to provide for listings in "a reputable law list, [or] legal directory, a directory published by a state, county or local bar association, or the classified section of telephone company directories giving brief biographical and other informative data".* These and other American

* New material underscored; omitted material in brackets

Bar Association amendments to DR 2-102(A) have not been adopted in New York.

ABA Inf. 1312 (1975), interpreting DR 2-102(A)(6) as originally adopted, recognized that a law list for purposes of this DR included "[e]very list of attorneys at law, legal directory or other instrumentality maintained or published primarily for the purpose of circulating or presenting the name of any attorney . . . as probably available for professional employment" (emphasis in ABA Inf. 1312). A "legal directory" for purposes of this DR was defined as a directory which, inter alia, was "intended primarily for circulation to lawyers", but which was "not maintained or published for the purpose of presenting lawyers' names as being probably available for professional employment". The Martindale-Hubbell Law Directory was thus defined as a "law list" and not a "legal directory".

ABA Inf. 1312 further held that DR 2-102(A)(6) made no distinction between the information which could be included in a law list or legal directory, but noted that publication was proper only if the law list or directory was "reputable". The test to determine whether a law list or directory is reputable is that specifically set forth in DR 2-102(A)(6), to wit: whether "its management or contents are likely to be misleading or injurious to the public or the profession".

ABA Inf. 1363 (1976), issued after the adoption of ABA amendments to DR 2-102(A)(6), explained:

"The law list or legal directory must be reputable, but there is no restriction as to who may publish or distribute a reputable law list or legal directory. This is unchanged by the 1976 amendment.

* * *

"To the extent that a 'directory published by a state, county or local bar association' constitutes a legal directory or law list as defined above, the amendment emphasizes one class of organizations that may publish them. Other organizations of lawyers or non-lawyers in like manner may also publish law lists or legal directories."

Although the Code in New York does not contain the specific language referring to "a state, county or local bar association", we hold that such associations are in no way forbidden from publishing a law list intended for wide public distribution, as long as the list conforms to the standards of DR 2-102(A)(6). To the extent that the information contained in the list or directory is specifically authorized by DR 2-102(A)(6) and is not misleading, its publication and distribution to "consumers" or members of the public would be proper.
