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Committee on Professional Ethics

Opinion #549 - 2/14/83 (44-82)

Topic: Collection agencies;  
referrals

Digest: Lawyer may accept  
referrals from  
collection agency  
of which he is a  
principal and may  
refer clients to the  
collection agency,  
with informed consent

Code: DR 2-103(A)

QUESTIONS

May a lawyer accept clients referred to him by a collection agency of which he is a principal, and may he refer clients to the collection agency?

OPINION

We held in N.Y. State 371 (1975) that generally an attorney may properly accept referral cases from a collection agency which has selected him if the agency has received authorization from the client to make the selection, acting as the client's agent, and the attorney is aware of such authorization. That opinion was not addressed to a situation in which the attorney is a principal of the referring collection agency.

We held in N.Y. State 536 (1981) that members of a law firm could with ethical propriety conduct a financial planning service from the same office in which they practice law and, assuming no violation of the statutes and rules against solicitation, that they could accept as clients of the law firm persons first introduced to them through their financial planning activities. See also N.Y. State 493 (1978), holding that a lawyer may conduct his practice and a real estate brokerage business from the same office.

With the landmark decision in Bates v. State Bar of Arizona, 433 U.S. 350 (1977), many of the ethical strictures against advertising by lawyers were removed. It nevertheless remains a violation of The Lawyer's Code of Professional Responsibility for a lawyer to solicit employment in violation of any statute or court rule. DR 2-103(A); see Judiciary Law § 479; Matter of Koffler, 51 N.Y.2d 140 (1980), cert. denied, 101 S. Ct. 1733 (1981); Matter of Greene, 54 N.Y.2d 118 (1981). It is neither the practice nor the province of this Committee to determine matters of law, and we therefore offer no opinion

as to whether the proposed conduct would constitute a violation of the law against solicitation. Assuming no such violation and further assuming full disclosure to the clients involved of the relationship between the collection agency and the lawyer, we see no ethical impropriety in a lawyer accepting clients referred to him by a collection agency of which he is a principal, and referring clients to the collection agency.

For the reasons stated, the questions posed are answered in the affirmative.

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