

Nebraska Ethics Advisory Opinion for Lawyers
No. 68-3

A LAWYER MAY ENGAGE IN SELLING INSURANCE, OTHER THAN LIFE INSURANCE, FROM HIS LAW OFFICE, PROVIDED, THAT HE DOES NOT ADVERTISE SUCH INSURANCE BUSINESS IN ANY MANNER; AND THAT THE VOLUME OF HIS LAW PRACTICE AND INSURANCE BUSINESS IS SO SMALL THAT SEPARATE QUARTERS FOR EITHER IS NOT ECONOMICALLY FEASIBLE.

CANONS INTERPRETED: (Professional Ethics)

Canon 27: Advertising, Direct or Indirect.

An attorney inquired whether it is ethical for him to hold an agent's license to sell casualty and related kinds of insurance from his law office on a part time basis, without solicitation or advertising in any manner.

The Advisory Committee of the Nebraska State Bar Association is of the opinion that this proposed activity would not violate the Canons of Professional Ethics, provided, that the safeguards herein set forth are adhered to.

Canon 27 prohibits the solicitation of professional employment by circulars or advertising, direct or indirect, and the conduct of a business which serves as a feeder to the lawyer's practice.

Apparently, the standing Committee on Professional Ethics of the American Bar Association has not issued a formal opinion on this question, but it has rendered several informal opinions which delineate both prohibited and permitted conduct in this area.

Informal Opinion No. 682 of that committee held that a practicing lawyer may not also conduct a real estate business at the same time and from the same office.

Informal Opinion No. 424 held that it is improper for a

practicing attorney to also engage in the sale of life insurance; that due to the legal problems involved in such sales, solicitation for life insurance may become a means of solicitations of business for the attorney.

Informal Opinion No. 987 issued May 23, 1967, discussed the question whether it is ethical for a lawyer who serves as vice-president in a bank in his day-to-day work to practice law in the bank premises during daily banking hours. While in this instance the Committee held that it would be unethical for the bank officer to practice law, in citing from Informal Opinion C-431, the Committee said:

"It is not necessarily improper for a practicing attorney to also engage in other business, provided such business is of such a nature or is conducted in such a manner as not to be inconsistent with the lawyer's duties as a member of the Bar. Such an inconsistency arises when the business is one which will readily lend itself as a means of procuring professional employment for him, is such that it can be used as a cloak for indirect solicitation would be regarded as the practice of law."

In a contrary holding, Informal Opinion No. 775 ruled that a lawyer may engage in an independent business "(1) if the separate business is clearly not necessarily the practice of law when conducted by a lawyer, (2) if it can be conducted in accordance with and so as not to violate the Canon, (3) if it is not used or engaged in such a manner as to directly or indirectly advertise or solicit legal matters for the lawyer as a lawyer, (4) if it will not 'inevitably serve' as a feeder to his law practice, (5) if it is not conducted in or from a lawyer's law office, except in cases where the volume of the law practice and business is so small that separate quarters for either is not economically feasible, and where even in such cases, there is no indication on the shingle, office door, letterhead or otherwise that the lawyer engages in any activity except the practice of law."

It, therefore, appears that a lawyer may engage in selling insurance. other than life insurance. from his law

office where the volume of his law practice and insurance business is so small as to preclude maintaining separate quarters for these enterprises. In so doing, however, the lawyer must strictly adhere to the criteria set forth in Informal Opinion No. 775, and avoid any suggestion that the insurance business is an indirect solicitation for his law practice.

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