

Nebraska Ethics Advisory Opinion for Lawyers
No. 70-1

AN ATTORNEY ACTIVELY PRACTICING LAW MAY NOT ETHICALLY SPECIFY ON HIS LETTERHEAD, PROMISSORY NOTE FORM, OR IN ANY WRITTEN FORM, OTHER OCCUPATIONS IN WHICH HE IS ENGAGED.

CANONS INTERPRETED

Canon 27 (Canons of Professional Ethics Relating to Advertising)

"It is unprofessional to solicit professional employment by circulars, advertisements, through touters or by personal communications or interviews not warranted by personal relationships."***

Canon 2 (Code of Professional Responsibility)

"A lawyer should assist the legal profession in fulfilling its duty to make legal counsel available."

EC 2-9. "The traditional ban against advertising by lawyers, which is subject to certain limited exceptions, is rooted in the public interest. Competitive advertising would encourage extravagant, artful, self-laudatory brashness in seeking business and thus could mislead the layman."***

DR 2-101.(E): "A lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on his letterhead, office sign, or professional card, nor shall he identify himself as a lawyer in any publication in connection with his other profession or business."

FACTUAL SITUATION

A law firm caused to be printed and used a promissory note form stating that its members are also engaged in business as real estate brokers. abstracters. and in

making loans and selling insurance.

QUESTIONS

The question posed is whether lawyers actively engaged in the practice of law may specify in written form other occupations followed by them.

DISCUSSION

Combining a general law practice with a mortgage loan business or a real estate brokerage business has been considered in several informal opinions of the American Bar Association.

In Informal Opinion No. 520, The Committee said:

"An attorney actively engaged in the practice of law may not also carry on a mortgage loan business from his law office."

In Informal Opinion No. 1280, it is stated:

"A lawyer may not specify other occupations in which he is engaged."

Informal Opinions No. 38 to 43 comment upon violations of the canon prohibiting advertising in this fashion:

"While an attorney may conduct a real estate business in another county (38), he cannot, from his own law office, conduct a stock business (39); operate a collection agency (40) or estate planning or any other business (43) without violating Canon 27."

Informal Opinion No. 709 asserts:

"A real estate brokerage business is so closely related to the practice of law that when engaged in by a lawyer, it constitutes the practice of law; therefore, the only fee that can ethically be charged is a legal fee

and not a brokerage commission."

Informal Opinion No. 1031 cites Informal Opinion No. 775 and comments upon a situation where a lawyer was engaged in both the practice of law and the real estate business. There the committee held:

"The real estate business must not be used or permitted to directly or indirectly advertise him as a lawyer or to solicit legal employment for him. Under no circumstances should the real estate business be conducted in or adjacent to the lawyer's law office if it advertises in any manner; nor in such circumstances (advertising and solicitation of real estate business) may it be conducted in the lawyer's name, but instead would have to be conducted under a corporate or other name not including the name of the lawyer."

CONCLUSION

This Committee concludes that lawyers cannot engage in the general practice of law and in any manner advertise that at the same time from their law office they act as loan agents or sell real estate and insurance.

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