

Nebraska Ethics Advisory Opinion for Lawyers
No. 75-6

IT IS NOT PROPER FOR A LAWYER'S NAME TO APPEAR AS "LEGAL COUNSEL" ON THE LETTERHEAD OF A COMMUNITY'S CHAMBER OF COMMERCE WHERE THE LAWYER IS NEITHER AN OFFICER OR DIRECTOR OF THE ORGANIZATION NOR DOES HE CHARGE FOR LEGAL SERVICES RENDERED THE ORGANIZATION IN THE NORMAL COURSE OF ITS AFFAIRS.

QUESTION

Inquiry is made as to the propriety of the following listing on the letterhead of a junior Chamber of Commerce, following the listing of the names and occupations of its officers and directors:

"Legal Counselor
John Doe
Attorney at Law"

The inquirer states that he is neither an officer or director of the organization but is a member, and that he will receive no compensation for legal services involved in advising on various items in the normal course of business conducted by the Jaycees.

DISCUSSION

At the outset, it is apparent that even though the question were to be answered in the affirmative the words "Attorney at Law" appearing below the name and the designation is surplusage and therefore objectionable so should be deleted. The occupation of the individual is already shown in the designation "Legal Counselor"--as a matter of fact, the preferable designation would be "Legal Counsel" rather than "Legal Counselor."

The question remains whether, under the Code of Professional Responsibility, it is proper to have any

designation and name at all on the clients' letterhead. In an early informal opinion of the ABA's Committee on Professional Ethics, that Committee ruled that a law firm may not allow itself to be listed as counsel for a Community Chest (Inf. Op. No. 79). In Formal Opinion 285 (1951) the Committee held that in the absence of special circumstances a law firm should not permit a manufacturers' association for which it is counsel to list the firm name on the association's letterhead or in its periodic bulletin to members. This opinion drew a distinction between listing the name of counsel on communications directed to its members or stockholders and communications or documents which would be disseminated to the general public. "...In other cases it may doubtless be considered as normal for a corporation or association to specify the name of its counsel, in order that the members or stockholders may be satisfied as to the competency of its legal department to advise it on corporate or association legal problems. Thus it would seem proper for a corporation in its annual report to stockholders to specify, along with the names of general officers of the corporation, those of its general counsel. On the other hand it would not appear to be proper for the corporation or association to specify such counsels name on its letterhead, which would be directed, not to its stockholders, but to the general public. A lawyer engaged in general practice would, therefore, not normally be justified in acquiescing in the inclusion of his name as general counsel on the letterhead of the corporation or manufacturing association..."

The pertinent provision of the Code which became effective in Nebraska on May 1, 1970, is DR 2-102. This disciplinary rule permits use of name and profession on letterheads in certain specified situations, including the following as set forth in DR 2-102(A)(4): "...A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if he or the firm devotes a substantial amount of professional time in the representation of that client..."

It would appear to follow from the foregoing that if the condition of devoting "a substantial amount of

professional time" is not met, then such designation on the client's letterhead would not be sanctioned.

This Committee questions the reasoning behind the rule above quoted which permits the answer to depend upon the ambiguous condition of what is "a substantial amount of professional time", but in any event, based upon the facts as presented in this inquiry, the inquiring lawyer presumably will not be devoting a substantial amount of professional time to the affairs of the Jaycees, and it is the opinion of the Committee that his name and profession should not be included on the client's letterhead.

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