

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion #20 - 12/10/65 (9-64) Topic: Advertising.
Political Activity.
Lawyer with Aspirations for
Public Office.

Digest: Improper for lawyer who aspires to public office to send congratulatory messages to those personally unknown to him and with whom the lawyer has no personal relations.

Canon: Former Canon 27

QUESTION

A member has requested an opinion of this Committee concerning the activities of an attorney in active practice, who aspires to public office and who wishes to employ a means to keep his name before the public. To do so, the attorney will clip and mail to the person concerned, items of current interest which appear in the local newspaper, particularly photographs, together with a short congratulatory message. There appears no reference either on the envelope or the message it contains, directly or indirectly, to the nature of the attorney's profession and the return address on the envelope carries his home rather than his business address.

OPINION

We assume that the recipient of such newspaper clippings, sent by the attorney with the congratulatory message, is personally unknown to the attorney. The purpose of such mailing, as stated by the inquirer, is to keep his name before the public inasmuch as he aspires for public office.

While a candidate for public office, who is a lawyer, may advise the public of this when the office sought is one in which his legal training adds to his qualifications to fill the office, he may not use the candidacy as an excuse for advertising. (See LEGAL ETHICS by HENRY S. DRINKER, page 248.) Also, we recognize that seeking election or appointment to a public office such as can be filled only by an attorney, is not solicitation of professional employment. (See LEGAL ETHICS by HENRY S. DRINKER, page 220.)

Canon 27 in part states it is unprofessional to solicit directly or indirectly professional employment by circulars, advertisements, through touters or by personal communication or interviews not warranted by personal relations. A person's continuing interest in public affairs is legitimately known to the community through service, whether professional or non-professional in character. This is right and proper. It does not justify an attorney in augmenting by artificial stimulus the publicity normally resulting from what he does.

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The words of Chief Judge Hughes in *SEMLER v. OREGON STATE BOARD OF DENTAL EXAMINERS*, 249 U.S. 608, 612 (1912) may well be applied to this question. "...the community is concerned in providing safeguards not only against deception, but against practices which would tend to demoralize the profession by forcing its members into an unseemly rivalry which would enlarge the opportunities of the least scrupulous. What is generally called 'ethics' of the profession is but the consensus of expert opinion as to the necessity of such standards."

For the reasons , above stated, and since in our opinion the proposed action would constitute advertising, which is prohibited under the Canons, the proposed activity would be improper.

Opinion #21 - 12/20/65 (10-65) Topic: Advertising.
Patent Specialization.

Digest: Proper to indicate one's
specialization on letterhead where
practice is in one of the re-
cognized specialties.

Canon: Former Canon 27

QUESTION

1. May the professional letterhead of an attorney include the following designations thereon, assuming that he is otherwise duly qualified:

"Registered U.S. Patent Attorney"

"Patent, Trademark & Copyright Causes
Domestic & Foreign".

2. Is it ethical for an attorney to date his professional letterhead in the following manner:

"October 6, 1965, In the Year of Our
Independence, the 190th".

OPINION

Canon 27 of the Canons of Professional Ethics of the New York State Bar Association provides in part, that a lawyer may publish in reputable law lists only, certain data including "branches of the profession practiced". There is an implication that to publish such data elsewhere is improper.

Canon 27 of the Canons of Professional Ethics of the American Bar Association provides in part as follows: