

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion

OPINION

The answer is clearly no. Listings in bold type under either the classification "ATTORNEYS AT LAW", or the classification "LAWYERS" - are in direct contravention to opinion #16 - 11/1/65 of this Association's Committee on Professional Ethics and in violation of its Canon 27. In opinion #428 - 1/5/38, the Committee on Professional Ethics of The Association of the Bar of the City of New York on a like inquiry took the same position stating:

"In the opinion of the Committee the primary effect of the proposed use of a style or size of type differing from that used for other names in a telephone directory is the presentation of the lawyer's name to the public as a lawyer. This is improper advertising and solicitation of business whether one lawyer or all lawyers are so listed. To select lawyers from a telephone directory certainly will not benefit the public. It is noted that the Committee on Professional Ethics and Grievances of the American Bar Association reached the same conclusion in Opinion 53.

"For the same reasons the proposed use of a different style or size of type in a city directory is also deemed to be professionally improper."

The Committee on Professional Ethics and Grievance of the American Bar Association has likewise condemned the use of bold face or distinctive listings in both the classified and alphabetical sections of telephone and city directories. (Opinion 284-August, 1951.)

The same ruling applies to law lists, even to law lists distributed solely to lawyers, because the solicitation of business from other lawyers is also condemned by Canon 27. (Opinion 123-12/14/34.)

The duty for adherence to the Canons of Ethics and the responsibility for the violation thereof rests and lies with the members of the legal profession. The position taken by the publisher of the directory is immaterial and does not mitigate the violation of Canon 27. However, the Committee recommends that the Bar Association of the locality where the directory is published be advised of this Committee's opinion, with a request to take whatever steps may be necessary to eliminate such improper listings in the future.

Opinion #35 - 11/8/66 (19-66) Topic: Use of Name in Testimonial.

Digest: Not improper for lawyer to permit use of his name in a testimonial which does not disclose that he is a lawyer.

Canon: Former Canon 27

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QUESTION

An attorney suffered a fire loss in his office. The insurance company has asked permission to use the attorney's name in a testimonial to be contained in an advertisement praising the efficiency with which the company, agent and adjuster handled the claim and the personal attention of the adjuster and agent. The advertisement would not state that the attorney is a lawyer. The attorney would not receive compensation for the use of his name and he does not represent the insurance company or the advertising agency as attorney.

Would authorization to publish the testimonial violate the Canons of Ethics?

OPINION

It is the opinion of the Committee that the use of the name of a member of the Bar in the proposed testimonial would be proper and not in violation of Canon 27 of the Canons of Professional Ethics.

Informal decision #C788 (12/11/64) of the Committee on Professional Ethics of the American Bar Association states, "This Committee has decided that the question whether an attorney should permit his name to be used in connection with a testimonial for a commercial product is a matter of taste and not ethics". This was also the opinion of the Professional Ethics Committee of The Association of the Bar of the City of New York dated January 17, 1940. The facts are distinguished from those contained in opinion #31 (6/8/66) of the Committee on Professional Ethics of the New York State Bar Association in that no identification of the individual as a member of the Bar is contained in the proposed testimonial.

The Committee refrains from comment upon the propriety of a member of the Bar participating in such testimonials.

Opinion #36 - 11/30/66 (12-66) Topic: Advertising.  
Announcement of Tax Specialization.

Digest: Lawyers may send announcement of tax specialization to other lawyers only.

Canon: None

QUESTION

S. is a New York attorney who has become increasingly active in tax matters. Although not a certified public accountant, he has an accountancy background which is useful to him in the tax field.