



Committee on Professional Ethics

Opinion #401 - 7/9/75 (53-75) Topic: Newsletter; advertising.

Digest: Not improper for newsletter prepared by a law firm for a client for distribution by the client in profit-making enterprise to name the lawyer and the law firm who prepared the newsletter.

Code: Canon 9
EC 2-2, 2-9, 2-10, 2-14, 9-6
DR 2-101(A), (B); 2-105(A)

QUESTION

Where law firm undertakes the preparation for its client, a profit-making corporation, of a newsletter on a legal subject for distribution by the corporation for a fee, may the newsletter identify the lawyer or lawyers who prepared it and name the law firm with which they are affiliated.

OPINION

As stated in ABA Inf. 1021 (1968):

"The problem of determining what is appropriate for a lawyer to permit to be stated about himself in connection with publications of various kinds is a very troublesome one indeed. Involved is a question of freedom of speech, the need for lawyers in general to learn about the law from other lawyers, the need for lawyers to be leaders in articulating law and political philosophy to the public in general and the desire on the part of the profession to minimize self-aggrandizement and to avoid the solicitation of business through any kind of self-touting or advertising."

Of course, the distribution of the newsletter should not be used as a means of advertising the law firm or the lawyer who prepared the letter. However, an unembellished statement identifying the lawyer or lawyers who prepared the newsletter and naming the law firm of which they are members or associates seems permissible. N.Y. State 287 (1973); cf. N.Y. State 283 (1973).

The publicity or advertising involved in such naming of the lawyer or lawyers and the law firm is outweighed by the legitimate purpose of identification of the author of the publication. The client should not promote its newsletter by reference to the competence or experience of the law firm or lawyer who prepared the newsletter, or in any other way advertise the ability or reputation of the firm or lawyer or state that it or he are specialists in the field. The law firm and the lawyer have affirmative obligations to endeavor to

see to it that all publicity concerning the newsletter conforms to proper standards. N.Y. City 859 (1963); N.Y. State 283 (1973). If such standards are adhered to, a dignified statement in the newsletter to the effect that the newsletter was prepared by a named lawyer affiliated with a named law firm is permissible. See, Canon 9, EC 2-2, 2-9, 2-10, 2-14, 9-6; DR 2-101(A), 2-101(B), 2-105(A).
