



## Committee on Professional Ethics

Opinion #556 - 1/19/84 (32-83)

Topic: Dual practice; advertising, limits on; title insurance.

Digest: A lawyer authorized to issue title insurance for a title insurance company may indicate that fact by placing appropriate information under the "title company and agent" and "lawyers" headings in the yellow pages.

Code: DR 2-101

### QUESTIONS

May a lawyer who is authorized to issue title insurance for a title insurance company indicate that fact by listing his name under the "title company and agent" heading in the yellow pages? May his listing under the "lawyers" heading in the yellow pages include reference to the fact that he is authorized to issue title insurance?

### OPINION

The general rule regarding advertising by attorneys, following the decision of the United States Supreme Court in Bates v. State Bar of Arizona, 433 U.S. 350 (1977), was stated by our Committee as follows:

"The Code . . . now clearly permits a lawyer to advertise information which is relevant to the process of lawyer selection generally or which reasonably bears upon his competence to serve as counsel in certain kinds of matters.

"The principal limitations pertaining to lawyer advertising and publicity are set forth in subdivisions (A) and (B) of DR 2-101. These subdivisions prohibit the use of statements that are 'false, deceptive, misleading or cast reflection upon the legal profession as a whole' or contain 'puffery, self-laudation, claims regarding the quality of the lawyer's legal services or claims that cannot be measured or verified.' Sub-

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division (D) further requires that '[a]dvertising and publicity shall be designed to educate the public to an awareness of legal needs and to provide information relevant to the selection of the most appropriate counsel.' Thus, in operating together, subdivisions (A), (B) and (D) of DR 2-101 broadly serve to define the absolute limits of permissible advertising and publicity." N.Y. State 487 (1978).

Consistent with this opinion, this Committee has held that a lawyer may maintain a dual practice as a real estate broker provided that he does not solicit employment in violation of any statute or court rule or accept employment resulting from unsolicited advice to a prospective client to seek counsel. N.Y. State 493 (1978); see DR 2-101(A). Similarly, a lawyer may maintain a dual practice as a certified public accountant and list both practices upon his professional letterhead or card. N.Y. State 494 (1978).

Thus it is now settled that a lawyer may have a dual practice and may advertise that fact, provided that he does not engage in unlawful solicitation. We believe that our prior opinions on the subject are dispositive of the questions posed. However, we point out that it is neither the practice nor the province of the Committee to determine matters of law, and therefore we offer no opinion as to whether the practice posited would violate Insurance Law § 440, Judiciary Law § 479 or any other legislation or court rule. Assuming no violation of law, we find the advertising proposed to be ethically proper.

For the reasons stated, and subject to the qualifications stated, the questions posed are answered in the affirmative.

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