

Advisory Opinion 1986-8

Factual Situation:

An attorney has been invited to join an organization called "Contacts." This organization assists its members to promote their businesses. The members hold weekly meetings and exchange business cards. Each member addresses the group and explains what kind of business he is seeking. If a non-lawyer member meets a person who needs an attorney, the member will give the prospect the attorney's card. In addition, the member will fill out a referral slip with the prospect's name and phone number on it and furnish that to the attorney who can then follow-up on the prospective client.

Question:

Would membership in this organization constitute a type of publicity (solicitation) prohibited by the Code of Professional Responsibility? Secondly, if the above procedure is modified to require the prospect to contact the attorney (instead of having the attorney contact the prospect), will this remedy solve the ethical problems?

Analysis:

Rule 2-103(C) of the Code of Professional Responsibility provides in part:

A lawyer shall not request a person or organization to recommend or promote the use of his services ... as a private practitioner, except as authorized in Rule 2-101 [allowing publicity by print media, radio or television], and except that:

(1) [the lawyer may use a bar association approved referral service]; and

(2) he may cooperate with the legal service activities... enumerated in Rule 2-103(D)(1) through (4)... [legal aid office, military legal assistance, etc.]

It would seem clear that joining "Contacts" constitutes a request for that organization and its members to recommend and promote the attorney's services. The vice appears to be in the joining of the organization and, thus, informing the prospect that he must contact the attorney does not cure the vice.