

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-32
Issued: May 1967

This opinion was decided under the Canons of Professional Ethics, which were in effect from 1946 to 1971. Lawyers should consult the most recent version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question 1: May an attorney represent, as an “executing agent and attorney in fact”, a fidelity and surety company which is engaged in the business of executing financial responsibility bonds and court appearance bonds?

Answer 1: No.

Question 2: May an attorney “personally” act as surety on a bond?

Answer 2: Yes.

Question 3: Does a judge of a minor court have the right to pass judgment on the ethical conduct of a member of the Bar?

Answer 3: No.

Question 4: Does a city judge have authority to suspend an attorney in the city police court?

Answer 4: No.

References: RCA 3.530

OPINION

Question 1

Basically the question is whether an attorney can engage in a business so closely related to the practice of law that advertising for, and the pursuance of this type of business could amount to the unethical practice of solicitation of law business. It is not at all improper for an attorney to engage in business, but when the nature of the business is such that it readily lends itself to a means of obtaining professional employment, the attorney should refrain from engaging in it. Individuals required to execute bond invariably are in immediate need of legal services. The business of “executing agent and attorney in fact” is so related to the practice of law that an attorney actively engaged in the practice cannot undertake it.

Question 2

There is nothing illegal in an attorney's executing a bond, but he should not do personally that which he can not do as an agent.

Question 3

Answers to questions of ethical conduct should be obtained through Advisory Opinions as provided by RCA 3.590 (now RCA 3.530). However, any judge of any court has jurisdiction to dispose of any unethical conduct or practice before him through contempt proceedings and may peremptorily exercise this authority, subject to statutory and constitutional limitations and such rights of review as may be provided by law.

Question 4

Disciplinary actions relating to a reprimand, suspension, or disbarment rest solely and exclusively in the Court of Appeals. See *In re Wehrman*, 327 S.W.2d 743 (1959).

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.