

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-91
Issued: March 1974

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), especially Rules 7.01-7.50 and the Attorneys' Advertising Commission Regulations, before relying on this opinion.

Question: May an attorney ethically place an announcement in the "Kentucky Bar Journal" advising of his availability to act as a consultant to or as an associate of other lawyers in a particular branch of law?

Answer: Yes.

References: Opinion KBA 72; DR 2-105(A)(3)

OPINION

The Committee has received an inquiry from an attorney who desires to place an announcement in the Kentucky Bar Journal advising of his availability to act as a consultant to or as an associate of other lawyers in a particular branch of law. He inquires whether this may ethically be done and, if so, requests approval of the following form of announcement:

ANNOUNCEMENT

..., of the firm of ..., announces that he is available to act as consultant to or as an associate of other lawyers in the field of ... practice. The address of the firm is ..., phone.

We have previously considered this question in KBA Opinion E-72, where it was noted that an associate of other lawyers in a particular branch of law might ethically distribute to other lawyers and publish in legal journals a dignified announcement of such availability. Reference for this conclusion was found in DR 2-105(A)(3), which provides:

A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once in a calendar year, but it may be published periodically in legal journals.

We have not had occasion to consider the particular form such announcements should take, but it is clear that they must adhere to the requirements of DR 2-105(A)(3). When considered in this light, the announcement submitted with this inquiry contains nothing that, in our opinion, would do violence to the operative rule.

In conclusion, the Committee believes that an announcement of the type under consideration may ethically “be published periodically” in the Kentucky Bar Journal. We also give specific approval to the form of announcement contained in this opinion. However, whether and under what circumstances the Journal may wish to undertake publication of such announcements is a matter of policy and economics over which we have no control.

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.