

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-116
Issued: July 1975

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 a lawyer who is a candidate for Lieutenant Governor identify himself as a lawyer and a certified public accountant in the same campaign advertisement?

Answer: Yes.

References: DR 2-101(B)(1), 2-102(E); EC 2-14

OPINION

In general, DR 2-101(B) provides that a lawyer may not publicize himself by advertising as a lawyer. DR 2-101(B)(I) makes an exception to this general rule: When a lawyer is running for political office, he may identify himself as a lawyer when his professional status is germane to the campaign or to a political issue. In KBA Opinion E-53 we observed that a lawyer-candidate may properly identify himself as a lawyer in his campaign advertising where he is running for an office in which knowledge of the law and legal training are helpful.

It is doubtful whether legal training is helpful to the Lieutenant Governor in performance of his regular duties. Legal training is helpful to the Governor in performance of his duties. In Kentucky the Lieutenant Governor succeeds to the Governorship when there is a vacancy in that office. In addition, the Lieutenant Governor is required to act as Governor with some frequency. Accordingly, we believe that the professional status of a lawyer-candidate for Lieutenant Governor is germane to his campaign and that he may make "limited and dignified identification" of himself as a lawyer in his campaign advertising.

We also believe that training as an accountant is similarly germane to the campaign of a CPA-candidate for Lieutenant Governor.

We believe it is not improper for a candidate for Lieutenant Governor who is both a lawyer and a certified public accountant to identify himself in both statuses in the same political advertisement. Under DR 2-102(E), a lawyer who is also a CPA may not identify himself in the latter capacity in his legal practice. In Kentucky there is no general system for insuring claims of special competence in particular fields of law. A lawyer who, in a professional context, identifies himself as a CPA, improperly implies that he is a specialist or that he has special training and

ability. See EC 2-14. Thus the prohibition of DR 2-102(E). But this implication arises only because the dual-professional identification is made in a professional context.

Here, the dual identification is made in a political context, so that DR 2-102(E) does not apply. The candidate asks the public to make implications concerning his qualifications for office from his status as a lawyer and his status as a CPA. He does not ask the public to make any implication connecting the two statuses and it seems perfectly clear that the public would not make any such implication in the circumstances.

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.