

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-125
Issued: September 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 be retained by a bonding company to represent a defendant in a criminal action for the purpose of entering a plea and negotiating a penalty?

Answer: No.

References: DR 2-103(D)

OPINION

This question is plainly disposed of by DR 2-103(D), which provides that “[a] lawyer shall not knowingly assist a person or organization that recommends, furnishes, or pays for legal services to promote the use of his services or those of his partners or associates.” A few exceptions are set out, but bonding companies are not among them.

The same answer applies whether the defendant does or does not specifically authorize the bonding company to hire the lawyer, whether the defendant does or does not wish to appear for trial.

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.