

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-195
Issued: October 1978

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>), before relying on this opinion.

Question: May a lawyer sign a title opinion to real estate, if in fact, the research and title examination was made by others, probably non-lawyers?

Answer: Yes.

References: EC 3-6

OPINION

The crux of the answer lies in the presumption that the lawyer must choose and be reasonably sure of the integrity and ability of those who do the research, and upon whom he relies.

In many states lawyers rely on abstracts of title made by individuals and title companies, whom the examining attorney may never know. In Kentucky, lawyers actually examine the original records and make an abstract and render an opinion from that examination. When the attorney places a clerk or other employee in the records office, he must be sure of that employee's fidelity and ability. However, that judgment is no more formidable than when he relies on an opinion in the State Reports, or, on annotations in any of the law texts, even C.J.S., or, Am Jur 2d.

The same process applies when any Webster's Dictionary, or, the Encyclopedia Britannica is consulted. Delegation of authority, legal research, fact investigations, and other facets of everyday law work must be shared, if the individual lawyer hopes to maintain a practice that will maintain the lawyer. While it is always recognized that the law is a profession and not a business, yet, from early times it has been recognized that he who serves the altar, must live by it. Today a lawyer needs reliable help, always remembering that the buck will stop with him.

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.