

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-302
Issued: May 1985

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 practice under a trade name?

Answer: No.

References: Code of Professional Responsibility (1969). DR 2-101(B)

OPINION

An attorney has questioned the continued vitality of DR 2-101 (B) which prohibits practice under a trade name. Supreme Court Rule 3.130(1) provides that "except for Ethical Considerations and Disciplinary Rules in conflict with Rule 3.135" such matters should be governed by the Code of Professional Responsibility. At the present time, Kentucky utilizes the 1969 version of the Code.

When the attorney's request was made, the matter was referred to the Attorney's Advertising Commission, which administers SCR 3.135. That body informed the requestor that this matter should be addressed to the Ethics Committee.

The Ethics Committee sought guidance on this matter from the Board pursuant to the tenor of SCR 3.530(2). The Board concluded that the DR is clear on its face, and that the request presents a legal question concerning the effect of SCR 3.135 on the Code as well as potential Constitutional questions, which neither the Ethics Committee nor the Board has jurisdiction to address. In the absence of guidance from the Supreme Court, the Board concluded that an Advisory Opinion should issue referring the requestor to DR 2-101(B). This procedure will facilitate the presentation of legal and Constitutional questions to the Supreme Court pursuant to SCR 3.530(5).

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.