The Advisory Committee
of the
Nebraska State Bar Association

January 17, 1975

Opinion No. 75-1

The use of credit cards for payment of legal services
previously rendered and expenses previously advanced is permitted
if the guidelines specified in this opinion are followed. Interest
may be charged on delinquent accounts with the client's agreement.
Opinion No. 72-2 which conflicts herewith is hereby rescinded.

QUESTION PRESENTED

On November 16, 1974, the American Bar Association adopted
Formal Opinion 338—which allows the use of credit cards subject
to certain specified guidelines. Our prior Opinion No. 72-2 pro-
hibited the use of credit cards unless the Bar Association specif-
ically approved and participated in the plan. The question presented
is whether our Opinion No. 72-2 should be rescinded and under what
specific guidelines.

DISCUSSION

The ABA Formal Opinion No. 338 refers to the following
prior ABA opinions on this subject: Formal Opinion 320 and
Informal Opinions 1120 and 1176. The ABA now rules that the
recently adopted Code of Professional Responsibility "has over-
rulled Informal Opinion 1176 and that the use of credit cards
for payment of legal expenses and services is permitted under
the Code, providing all of its provisions are fully and completely
observed." We concur in the new ABA position and hereby rule
that a credit card plan conforms to the Code provisions and that
the considerations flowing therefrom if the plan requires that:

1) Neither the participating lawyer nor the credit
card company shall disseminate any publicity or
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advertising relating to the credit-card plan
because such activity would be prohibited under
EC 2-9 and DR 2-101(a) and (b), all of which
prohibit any publicity or advertising either
by the lawyer or by other persons on his behalf.
The proper official of the Nebraska State Bar
Association may make a discreet public announce-
ment that the credit card plan has been approved
for use by Nebraska lawyers.

2) No directory of any kind shall be printed or pub-
lished of the names of individual attorney members
who subscribe to the credit card plan.

3) No promotional materials of any kind will be
supplied by the credit card company to a partici-
pating attorney except possibly a small insignia
to be tactfully displayed in the attorney's office
indicating his participation in the use of the credit
card.

4) A lawyer shall not encourage participation in the
plan, but his position must be that he accepts the
plan as a convenience for clients who desire it;
and the lawyer may not because of his participation
increase his fee for legal services rendered the
client.

5) Charges made by lawyers to clients pursuant to a
credit card plan shall be only for services actually
rendered or cash actually paid on behalf of a client;
consequently, a credit card may not be used for a
retainer for future services, since this would in-
volve complicating questions of proper refunds, etc.,
in case the services were not fully rendered as
contemplated by the attorney and client (See discussion of old Canon 12 in ABA Formal Opinion 320 and the complications envisioned thereunder in credit plans administered by Bar Associations).

6) In participating in a credit card program the attorney shall scrupulously observe his obligation to preserve the confidences and secrets of his client.

7) Since the charging of interest is a necessary corollary to the use of credit cards, interest may be charged provided that the client is advised by the lawyer and agrees to the payment of interest upon accounts after a stated period of time.