

Nebraska Ethics Advisory Opinion for Lawyers
No. 80-7

IT IS NOT UNETHICAL PER SE FOR A LAWYER, IN PARTNERSHIP WITH A NON-LAWYER, TO PROVIDE LOBBYING SERVICES IF THE PRACTICE OF LAW IS NOT INVOLVED.

QUESTIONS PRESENTED

You inquire as to the ethical propriety of a lawyer and a non-lawyer forming a partnership the purpose of which is solely and exclusively to provide lobbying services before the Nebraska Legislature for clients who would all have their own respective legal counsels, assuming the lobbying were provided by the partnership would exclusively involve matters which could be performed by non-lawyers. The issue, as you put it, is whether the forming of the partnership, the resulting sharing of fees, "and related matters" would violate provisions of the Code of Professional Responsibility.

DISCUSSION

Admission to the Bar and the resulting status of a lawyer does not automatically disqualify one from all occupational pursuits except the practice of law. Obviously, a lawyer may do many things other than practice law and, if the practice of law is in no way involved, he may do them in association or partnership with others including non-lawyers. For example, we see no ethical prohibition against the operation of a drug store by a partnership consisting of a lawyer and a non-lawyer. DR 3-103 A states:

"A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law."

Your inquiry is silent as to whether the lawyer member of the lobbying partnership intends, separately from the partnership, to practice law. If not, then your inquiry is

answered by the foregoing. If so, then a closer question is presented. Our past opinions have considered the ethical propriety of practicing lawyers engaging also and simultaneously in other occupational pursuits, generally with disfavor. In [Opinion No. 68-3](#), we approved the sale of insurance, other than life insurance, but subject to several limitations and safeguards. In [Opinion No. 72-11](#), we found that it would be unethical for an abstractor who is a lawyer to identify himself as a lawyer in trade journals. In [Opinion No. 73-9](#), we concluded that a lawyer might serve as a banker, but only under several conditions relating to the separation of the two pursuits, as we did in [Opinion No. 74-3](#) in the case of a lawyer holding himself out as a real estate broker. In [Opinion No. 75-5](#), we found that a lawyer who, as a CPA, is practicing accounting in a firm may not also practice law in the same firm, but might do so independently and outside the accounting firm if all of his activities therein are subject to the requirements of the Code of Professional Responsibility.

Several of the opinions mentioned above of which you may wish to request copies, refer to DR 2-101 regarding Publicity in General, DR 2-102 regarding Professional Notices, Letterheads, Offices, and Law Lists, DR 2-103 regarding Recommendation of Professional Employment, DR 2-104 regarding Suggestion of Need of Legal Services, DR 2-105 regarding Limitation of Practice, and DR 2-106 regarding Fees for Legal Services, which also should be considered.

Perhaps the most definitive statement is found in Informal Opinion 775 (1965), which was quoted in several of the foregoing opinions, as follows:

"While . . . the Committee does not consider it to be necessarily unethical to practice law and concurrently, but in different transactions, engage in the real estate business, the Committee is of the opinion that, to do so in accordance with the Canons, is so difficult that suspicions of unethical conduct are almost inevitable. For that reason alone, it is our opinion that only

a very few lawyers will expose themselves to such suspicions on the part of their brother lawyers and the public. The lawyer who does so, must be willing to undertake the tremendous burdens of conducting his real estate business ethically under the Canons . . ."

CONCLUSION

It is not unethical per se for a lawyer, in partnership with a non-lawyer, to provide lobbying services if the practice of law is not involved in any way among the activities of the partnership. If the lawyer member, additionally and simultaneously, maintains a separate law practice, he incurs a substantial risk of at least the appearance of impropriety, the avoidance of which may be impossible even with scrupulous adherence to the Code of Professional Responsibility.

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