

Nebraska Ethics Advisory Opinion for Lawyers  
No. 89-5

AN ATTORNEY MAY NOT ETHICALLY PARTICIPATE IN A "FOR PROFIT" LAWYER REFERRAL SERVICE IF THE NAME USED BY THE REFERRAL SERVICE IMPLIES THAT PARTICIPATING ATTORNEYS ARE "MEMBERS" OF AN ASSOCIATION OF TRIAL LAWYERS PRACTICING IN A SPECIFIC AREA OF LAW.

FACTS

An attorney asks if he may ethically participate in a "for profit" lawyer referral program in which "members" pool their resources for advertising purposes. The name of the referral service implies that "members" belong to an association of trial lawyers practicing in a specific area of law. There are no admission standards for participating attorneys.

DISCUSSION

[Opinion 87-2](#) held that an attorney could participate in a "for profit" lawyer referral program if the attorney does not give anything of value to the program for recommending the attorney's services and if the program is in compliance with the applicable provisions of the Code of Professional Responsibility. The Opinion also notes that it is the individual attorney's responsibility to assure the program's compliance with the Code.

Attorneys may not participate in false or misleading advertisements. DR 2-101. This restriction also applies to firm names, letterheads and other professional designations. DR 2-102 (A). Attorneys are also prohibited from holding themselves out to the public as specialists. DR 2-105 (A).

Since individual attorneys cannot participate in false or misleading advertisements, or, hold themselves out as specialists, attorneys banned together for advertising

purposes should not be permitted to do so under the auspices of an "association". Attorneys cannot circumvent a Disciplinary Rule through the actions of another. DR 1-102 (A) (3).

It is the opinion of the Committee that the name used by the referral service violates the Code of Professional Responsibility. The name implies that "member" attorneys are specialists. In reality, there are no admission standards to become a "member" of the service. The name is therefore false and misleading.

#### CONCLUSION

An attorney may not ethically participate in a "for profit" lawyer referral service if the name used by the referral service implies that participating attorneys are "members" of an association of trial lawyers practicing in a specific area of law.

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