

Nebraska Ethics Advisory Opinion for Lawyers
No. 73-9

A LAWYER MAY SERVE AS PRESIDENT OF A BANK AND TAKE AN ACTIVE MANAGEMENT ROLE IN THE BANK AS PRESIDENT AND ALSO SELL INSURANCE OTHER THAN LIFE INSURANCE FROM AN OFFICE WITHIN THE BANK, AND MAY ALSO MAINTAIN A SEPARATE AND DISTINCT OFFICE FOR THE GENERAL PRACTICE OF LAW IN THE SAME COMMUNITY BUT IN A BUILDING SEPARATE FROM THE BANK'S OFFICES IF (1) THE BANKING AND INSURANCE BUSINESSES ARE CONDUCTED IN SUCH A MANNER THAT THEY DO NOT FEED LEGAL BUSINESS TO THE LAW OFFICE AND IF (2) HE DOES NOT DEAL WITH CUSTOMERS AT THE BANK OR THE INSURANCE OFFICE ON MATTERS THAT HAVE LEGAL IMPLICATIONS, OR WHICH WOULD BE CONSIDERED LEGAL SERVICES WHEN PERFORMED BY A LAWYER AND IF (3) HE IS NEVER IDENTIFIED AS A LAWYER IN ANY ADVERTISING, ANNOUNCEMENTS OR CARDS RELATED TO THE BANKING AND INSURANCE BUSINESSES.

DISCIPLINARY RULES CONSTRUED:

DR2-101 - Publicity in general (A) A lawyer shall not ... use ... any form of public communication... calculated to attract lay clients;.... (B) A lawyer shall not publicize himself...except as permitted under DR2-103.

DR2-103 - Recommendation of professional employment (A) A lawyer shall not recommend employment ... of himself, his partner or associate to a non-lawyer who has not sought his advice regarding employment of a lawyer.

Old Canon 27: Advertising, Direct or Indirect - It is unprofessional to solicit employment by circulars, advertisements through touters or by personal communications or interviews not warranted by personal relations.

An attorney inquires if he may take an active

management role in a bank of which he is President and also sell insurance from an office within the bank and also practice law in the same town in an office separate from the bank

Formal [Opinion No. 68-3](#) of the Nebraska State Bar Association dated October 8, 1963 has ruled that a lawyer may engage in selling insurance, other than life insurance. That opinion permitted the insurance business to be conducted from the law office, but prohibited advertising of the insurance business. Since the inquiring attorney states that the insurance business will be conducted in the banking office, we do not feel that it is necessary to prohibit advertising, but we do feel it necessary to prohibit any identification of the inquirer as a lawyer in any of the advertising material. The sale of life insurance is prohibited under Informal Opinion No. 424 of the American Bar Association and Formal [Opinion No. 68-3](#) of the Nebraska Bar Association cited above.

On the issue of whether the lawyer may also assume an active role in the bank's management as its President, we have relied heavily upon Informal Opinion No. 987 of the American Bar Association which dealt with a similar inquiry. As is indicated by our opinion herein, this type of activity is not per se prohibited, but the attorney must make certain that he does not violate any canons of ethics, and thus the three cautionary prohibitions are set forth in our opinion of approval. It is therefore the attorney's responsibility to make certain that he does not violate any of these canons of ethics.