

DIGEST OF ETHICS ADVISORY PANEL
OPINION #90-10, REQUEST #82
Issued January 18, 1990

An attorney seeks Panel advice as to whether he may properly run a certain advertisement.

The attorney states that he plans to run his advertisement in the "Homes for Sale" section of the newspaper. The attorney has submitted a copy of the advertisement for Panel review. The first line reads "Real Estate Attorney" in capital letters. The second line is the attorney's full name. The third, fourth and fifth lines are, respectfully, the attorney's office street address, town, state and zip code and lastly, his phone number.

Rule 7.4 provides in pertinent part:

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer may not, however, indicate that his or her practice is limited to or concentrated in particular fields of law unless, as part of the same communication, the lawyer also indicates that Rhode Island does not have a procedure for certification or recognition of specialization by lawyers. A lawyer shall not state or imply that the lawyer is a specialist except as follows * * *

Since Rule 7.4 permits an attorney to indicate the fact that he practices in particular fields, it would certainly be permissible for the attorney's advertising material to state that he accepts cases involving real estate. The appellation "Real Estate Attorney" could, however, be interpreted either to express the permissible idea that he accepts real estate cases or to express the impermissible idea that Rhode Island recognizes a specialty which it designates "Real Estate Attorney." The attorney's advertisement falls within a gray area and therefore could conceivably mislead a potential client.

The Panel takes the position that in order to avail himself of Panel protection the attorney must include the disclaimer set forth in the rule to the effect that no procedure exists in Rhode Island for the certification or recognition of specialization by lawyers.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.