

ETHICS ADVISORY PANEL
OPINION #94-8 REQUEST #460
Issued February 23, 1994

The inquiring attorney represents an incorporated non-profit association ("the association") and has provided legal services for some, but not all, of the association's members. The inquiring attorney seeks to send a letter to each of the individual members of the association offering his/her legal services for estate planning. The inquiring attorney asks whether the proposed solicitation must be labeled "advertisement" pursuant to Rule 7.3 of the Rules of Professional Conduct.

Rule 7.3(a) provides as follows:

Rule 7.3. Direct Contact with Prospective Clients. -

(a) A lawyer may not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone or telegraph, or by other communication directed to a specific recipient and includes any written form of communication directed to a specific recipient and not meeting the requirements of paragraph (b) of this rule.

Rule 7.3(a) embodies the general prohibition against the solicitation of clients for pecuniary gain. The Rule exempts from the ban solicitations directed at family members and those individuals with whom the lawyer has had a prior professional relationship.

In this case, the inquiring attorney has a professional relationship with the association itself; however, he/she does not have a prior professional relationship with all of the individual members of the association. The inquiring attorney's proposed solicitation must therefore comply with the provisions of Rule 7.3 (b)(1).