

ETHICS ADVISORY PANEL  
OPINION # 95-21, REQUEST # 583  
Issued May 4, 1995

The inquiring attorney seeks an opinion regarding a proposed advertisement that the attorney proposes to send to realtors in this state. The advertisement states that the inquiring attorney offers title searches for realtors on new listings for a set fee. If the realtor refers the buyer to the inquiring attorney, he/she will credit the buyer the same fee towards the buyers' title costs at the closing. The credit will be memorialized in a "Closing Cost Coupon" given to the brokers. The "coupons" will be transferable to buyers, who will presumably turn them in to the inquiring attorney for credit at the closing. The proposed advertisement contains the specialization disclaimer required by Rule 7.4

The general rule regarding information about legal services is Rule 7.1 entitled, "Communications Concerning A Lawyer's Services." That Rule states that all communications about a lawyer's services should be truthful, should not create an unjustified expectation about results and should not compare lawyer services unless factually substantiated. Rule 7.2(a) permits public dissemination of information regarding a lawyer's services on condition that the attorney provides a copy to the Supreme Court Disciplinary Counsel.

Rule 7.3 entitled "Direct Contact with Prospective Clients" addresses direct solicitation by a lawyer. In order to have direct solicitation, the communication must be marked "advertisement" on the envelope and at the top of each page in larger type than the communication. The "coupons" must also be marked "advertisement" in accordance with the Rule.

The inquiring attorney's proposed direct advertisement to realtors will comply with the Rules on advertisement as long as he/she states in larger type the term "advertisement" on the letter, the envelopes and the "coupons." In addition, the advertisement should be provided to the Disciplinary Counsel's office within forty-eight (48) hours of the first dissemination.

The Panel declines to render an opinion as to the "coupons" because the Panel has insufficient information on which to conclude that the "coupons" are not misleading. The Panel cautions the attorney regarding Rule 5.4 "Professional Independence of a Lawyer" and Rule 1.5 "Fees."