

Final

ETHICS ADVISORY PANEL
OPINION 96-01, - REQUEST # 641
ISSUED - March 14, 1996

FACTS:

The inquiring attorney proposes to provide legal services for the employees of a client. The attorney would offer a specific list of legal services which he/she would provide to the employees for a predetermined fee. The employer would inform the employees of the availability of such services. The employer would not receive any form of consideration in this matter and participation by an employee would be voluntary.

The attorney also desires to offer a similar program to other client and non-client businesses.

ISSUES PRESENTED:

Whether the proposal would violate the Rules of Professional Conduct.

OPINION:

(1) As to existing clients, the proposed arrangement is acceptable so long as the cooperation of the existing client is voluntary, the client receives no consideration, and there is no pressure on employees to use the attorney's services.

(2) As to prospective clients, the arrangement is acceptable only if the requirements of Rule 7.3 "Direct Contact with Prospective Clients" are complied with.

REASONING:

There is no prohibition in the Rules against voluntary unsolicited referrals or recommendations by clients. However, when such referrals or recommendations are solicited by an attorney by direct contact with non-clients, the Rules treat the solicitations as "advertising," and Rule 7.3(b) imposes several requirements, including a label of "advertisement" and deposit of a copy with the Disciplinary Counsel.

Rule 7.3 states, in pertinent part:

- (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.

The employer may recommend the inquiring attorney's legal services to his/her employees assuming the referral does not involve coercion, duress or harassment by the employer. Since the employer has taken this task upon his/her own volition Rule 7.3 has not been violated.

