

DIGEST OF ETHICS ADVISORY PANEL  
OPINION #88-28, REQUEST #29  
Issued October 20, 1988

An attorney seeks Panel advice as to whether it is permissible under the Code of Professional Responsibility for him to enter into a brokerage contract with an entity which provides access to the services of medical consultants and Board Certified medical experts for use in medical malpractice or other personal injury cases. The inquiring attorney advises the Panel that under the terms of this brokerage contract he would be paid, in part, on a contingent fee basis but that all fees earned would be strictly for his services as a broker not for legal services. He further indicates that he would like to publicize this venture through direct mailings to other attorneys, using letterhead which includes his name, legal degree and the name of his medical consulting services corporation.

The brokerage service described is a commercial rather than a legal activity; thus it is permissible under the Code provided the inquiring attorney conforms to the requirements of DR 2-103(E). Disciplinary Rule 2-103(E) provides:

A lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on his letterhead, office sign or professional card, nor shall he identify himself as a lawyer in any publication in connection with his other profession or business.

It is impermissible for the inquiring attorney to use stationery which indicates that he is a lawyer as well as a provider of expert services. It would also be impermissible for the inquiring attorney to use his law office stationery in connection with his role as a broker of expert services, or to identify himself as a lawyer in any documents generated in connection with his role as a broker.

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.