

Final

Rhode Island Supreme Court  
Ethics Advisory Panel  
Opinion No. 98-16 Request No. 761  
Issued December 9, 1998

**Facts:**

The inquiring attorney receives referrals from the Rhode Island Bar Association Lawyer Referral Service. The Service sends a notice to the attorney, advising him/her of the name and address of the person to whom the referral was made as well as the nature of the case. The inquiring attorney states that he/she often does not hear from persons referred to him/her in a timely fashion. He/she further states that when persons so referred eventually contact the inquiring attorney, they tell him/her that they were waiting for the attorney to contact them. To more efficiently handle the referrals, the inquiring attorney proposes to contact by telephone or by letter the persons who have been referred to him/her. The attorney has submitted a proposed letter for the Panel's review.

**Issue Presented:**

- (1) Is telephone contact with persons who have been referred to the inquiring attorney by the Bar Association Lawyer Referral Service a violation of Rule 7.3?
- (2) Would a letter to a person so referred which does not conform to the requirements of Rule 7.3(b) be a violation of the Rule?

**Opinion:**

- (1) No. Telephone contact of persons referred to the inquiring attorney by the Bar Association Lawyer Referral Service is not a violation of Rule 7.3(a).
- (2) No. A letter from the inquiring attorney sent to persons who are referred to him/her by the Lawyer Referral Service need not conform to the requirements of Rule 7.3(b).

**Reasoning:**

At the outset, the Panel reiterates that it will not embark on the task of editing documents, and will not therefore give approval to a document as a whole by way of an advisory opinion. See R.I. Sup. Ct. Ethics Advisory Panel Op. 96-28 (1996) and Op. 90-15 (1990).

Rule 7.3 provides in pertinent part:

**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 not meeting the requirements of paragraph (b) of this rule.

(b) Written communication.

(1) Written communication to prospective clients with whom the lawyer has no family or prior professional relationship are subject to the following requirements:

(a) Such written communications shall be plainly marked "advertisement" on the face of the envelope and at the top of each page of the written communication in type one size larger than the largest type used in the written communication

(b) A copy of each such written communication shall be sent to the Supreme Court Disciplinary Counsel and another copy shall be retained by the lawyer for three (3) years. If written communications identical in content are sent to two (2) or more prospective clients, the lawyer may comply with this requirement by sending a single copy together with a list of the names and addresses of persons to whom the written communication was sent to the Supreme Court Disciplinary Counsel as well as retaining the same information.

Under these circumstances, a telephone call or a letter from an attorney to a person who has been referred to the attorney pursuant to the Bar Association's Lawyer Referral Service is not a solicitation. The prospective client has initiated the contact for legal services through the Lawyer Referral Service. The inquiring attorney is a registered member of a qualified lawyer

referral service sponsored by the Bar Association. Pursuant to the established procedures of the Referral Service, a trained interviewer or lawyer at the Referral Service has interviewed the prospective client and has referred him or her to a lawyer on its panel. The Referral Service provides the prospective client and the attorney each with a copy of an in-take form which typically contains the prospective client's and the attorney's names, addresses, and phone numbers. Although the in-take form expressly directs the prospective client to call the named attorney to arrange a consultation, the inquiring attorney has represented that clients often fail to call in a timely manner.

The Panel believes that an attorney's follow-up phone call or letter to a prospective client referred to him/her through the Bar Association's Lawyers Referral Service is not a prohibited solicitation under Rule 7.3. The Panel is of the opinion that the established policies and procedures of the Bar Association's Lawyer Referral Service adequately serve to eliminate the potential for abuse and overreaching inherent in direct solicitation. In addition to these procedural safeguards, an overriding consideration in this inquiry is the fact that the purpose of the Bar Association's Lawyer Referral Service is to make legal services readily available to the public.

Accordingly the inquiring attorney is permitted to contact by telephone a prospective client who has been referred to him/her through the Bar Association Lawyer Referral Service. Similarly, the inquiring attorney is permitted to contact the prospective client by a letter which need not conform to the requirements of Rule 7 .3(b).