



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in July 2010. Please see the 2010 Illinois Rules of Professional Conduct 5.5(a) and 7.3. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion Number 705
April 30, 1981**

**Topic: Aiding the unauthorized
practice of law by a corporation.**

Digest: It is professionally improper for a lawyer to accept and act upon legal claims forwarded to the lawyer by a corporation which solicited the claims.

Ref: R 3-101(a)
R 2-103(a)
Former ABA Canon of Ethics 47
ISBA Opinion Nos. 176 & 244

FACTS

An out-of-state corporation solicits commercial creditors by mail, offering what the corporation refers to as a "unique legal service," and an alternative to collection agencies. The service calls for the creditor to submit its claims for overdue accounts to the corporation; the corporation forwards the claim to a participating attorney, who sends two demand-for-payment letters to the debtor. The corporation refers to itself as the creditor's agent to procure an attorney for the creditor; if the two letters are unsuccessful, the attorney contacts the creditor directly for further authorization to proceed.

An opinion is requested regarding whether an Illinois attorney can ethically participate in the plan by accepting and acting upon the referred claims.

OPINION

The Practice of Law by Corporations Act, Ill.Rev.Stat.1979, Ch. 32, Sec. 415, provides that no corporation shall be permitted to solicit, directly or indirectly, professional employment of a lawyer.

The form letter sent by the corporation to the creditor is clearly solicitation for the professional services of a lawyer; i.e. "Now you can have one of the hundreds of participating law firms in our national network contact your Opinion Number 705 debtor. The charge for this unique legal service, regardless of the size of the claim, is \$15.00." Therefore, the soliciting corporation is engaged in the unauthorized practice of law.

Similar situations have been examined in the past by this Committee. In Opinion No. 176, the Committee states that an attorney cannot aid a lay agency in practicing law by accepting employment from the agency to do legal work for its patron. More particularly, Opinion No. 244 states that a practicing lawyer cannot participate in the collection activities of an agency which solicits the collection of claims; if a lawyer participates in such activities he must withdraw from the practice of law and refrain from holding himself out as a lawyer. The vice in these situations lies in the fact that the corporation solicits work the performance of which will involve the professional services of a lawyer.

In the facts submitted to us, the soliciting corporation advertises the participation of "our member attorneys" in "our national network." The question presented is whether an Illinois attorney may ethically participate in such a referral plan when the claims are solicited in violation of the Practice of Law by Corporations Act.

Rule 3-101(a) provides that a lawyer shall not aid a nonlawyer in the unauthorized practice of law; R 2-103 forbids a lawyer from soliciting employment, directly or through a representative, by private communication. Former A.B.A. Canon of Ethics No. 47 stated that no lawyer shall permit his professional services or his name to be used in aid of, or to make possible, the unauthorized practice of law. A lawyer who agrees to participate in the plan and who accepts and acts upon referrals acquired through solicitation aids the soliciting corporation in the unauthorized practice of law, in violation of the Code of Professional Responsibility.

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