



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in May 2010. Please see the 2010 Illinois Rules of Professional Conduct 5.5(a) and 7.2(b). 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 No. 90-19
January 29, 1991**

Topic: Unauthorized Practice of Law; Solicitation

Digest: A lawyer may not assist a "Financial Planner" who is engaged in the unauthorized practice of law. A lawyer may not give anything of value to a financial planner to initiate contact with prospective clients, or recommend the services of such lawyer.

Ref.: Rules 5.5(b) and 7.2(b)

FACTS

A "Financial Planner" has obtained a generic form of Revocable Trust. His agents and representatives have a brochure which lists the common advantages and disadvantages of the Trust as an estate planning device. The Financial Planner cold canvases or advertises for a prospect who might benefit from the Trust and explains the advantages and disadvantages. He then fills out the Trust based on information obtained from the prospective client.

QUESTIONS

1. Does the forgoing activity constitute the unauthorized practice of law?
2. If, instead of explaining the advantages and disadvantages of the Trust and filling it out himself, the Financial Planner suggests that the client contact a lawyer to review the Trust document

to see if it is legally sufficient for his needs, and if the client has no lawyer, suggests the services of Lawyer "X" would the acceptance of such client by Lawyer "X" constitute a violation of the Code of Professional Responsibility or the Rules of Professional Conduct?

3. As an alternative, if the Financial Planner holds seminars concerning the benefits of the Revocable Trust, at which Lawyer "X" would be present and explain the legal ramifications, would such conduct by Lawyer "X" constitute a violation of the Code of Professional Responsibility or the Rules of Professional Conduct?

In each of the foregoing scenarios Lawyer "X" would charge a separate fee billed to and paid by the client, and the Financial Planner would charge a fee for his services.

OPINION

With regard to Question #1:

Based upon the facts, it would appear that the activities of the Financial Planner described above may constitute the unauthorized practice of law. Lawyer "X" might be deemed to be aiding a nonlawyer in the unauthorized practice of law in violation of Rule 5.5 (b) of the Rules of Professional Conduct.

With regard to Question #2:

If Lawyer "X" promises or gives the Financial Planner anything of value to initiate contact with a prospective client on behalf of Lawyer "X", such action by Lawyer "X" would be in violation of Rule 7.2 (b), and, if Lawyer "X" gives anything of value to the Financial Planner for recommending Lawyer "X's" services, such action by Lawyer "X" would be in violation of Rule 7.2 (b) of the Rules of Professional Conduct.

With regard to Question #3:

If the activities of the Financial Planner do not constitute the unauthorized practice of law, the presence of Lawyer "X" at seminars conducted by the Financial Planner and the explanation to the persons assembled at such seminar, as a group, by Lawyer "X" of the legal ramifications of the Trust would not constitute a violation of the Rules of Professional Conduct.

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