

such consequences as the law provides in such cases.

EDITOR'S NOTE: See Opinion No. 264, *supra*, and note thereto.

Opinion No. 268 (February 16, 1960)

ADVERTISING. It is improper for an attorney for an organization to permit the use of his picture and biography to be included in advertisements of the organization.

A member of the Association asks the Committee's opinion on the following:

A federal savings and loan association issued a four page pamphlet advertising the institution and mailed copies to the public at large. Across two of the four columns of the inside two pages appears the pictures and description of some of the experience of two attorneys for the institution. The brochure states:

"A & B
LEGAL COUNSEL FOR OUR
ASSOCIATION

The firm of A & B serves Federal as legal counsel together with our own C, Executive Vice President, who is also an attorney. Their combined legal astuteness assures the Association constant awareness of every legal change and influencing event."

Following the descriptions of the experience of the two attorneys is a list of directors of the institution and their business or professional association. Following this list there is the legend:

"COUNSEL
A & B
C"

C is also identified as an Executive Vice President of the association. It is assumed that so much of the pamphlet as relates to the attorneys was prepared

and published with their knowledge and consent.

The question presented is whether it is unethical for an attorney to permit the use of his picture and name in such an advertisement.

The Rules of Professional Conduct of the State Bar of California prohibit an attorney from soliciting professional employment by advertising or otherwise (Rule 2). The rule includes the prohibition against using pamphlets or any medium of communication to advertise the name of the lawyer or his law firm or the fact that he is a member of the State Bar or the Bar of any jurisdiction. This rule and Rule 2a mention several practices such as the use of professional cards, telephone directory listings and listings in law lists which are not deemed to be in violation of Rule 2. Prior to its amendment, effective January 5, 1960, Rule 2 did not specifically refer to advertising the name of a lawyer in pamphlets or in other media. Since the publication here involved was made before January 5, 1960, the Committee bases its opinion on the rules as they existed before 1960. However, the Committee's conclusion would be the same if the matter was considered under Rule 2a.

The Canons of Professional Ethics of the American Bar Association provide that it is unpro-

fessional to solicit professional employment by circulars and the like (Canon 27). This canon also lists certain practices which are not deemed to be in violation of the canon.

The Committee on Professional Ethics and Grievances of the American Bar Association has held that it is in violation of Canon 27 for law firms engaged in general practice to permit a manufacturing association to specify their names as general counsel on letterheads used for correspondence with the general public or on bulletins sent out from time to time by the association (Opinion 285).

This Committee has held that an attorney may not ethically permit a corporation, trade organization or collection agency represented by him to advertise his employment as such counsel in newspapers, circulars or upon a letterhead (Opinion 43).

There is no possible justification for the advertisement under consideration. Neither A nor B is a director or officer of the institution. The pamphlet is not sent to members only. The purpose may be to get business for the institution, but generally it is not the function of lawyers to promote a client's business through advertisements and particularly through advertisements which advertise the experience of the lawyer.

The facts here presented differ considerably from those where an

attorney is a director of a financial institution and his name with a designation of his profession appears with the names and business or professional connection of the other directors of the institution. In the latter case, the purpose is to identify the directors, not to advertise their legal experiences.

The A.B.A. Committee, in Opinion 285, referred to above, said:

"The purpose of the provisions of Canon 27 condemning advertising is emphatically to discourage all forms of self-laudation by lawyers, not only direct, but also indirect. The latter include any suggestion or encouragement of commendatory statements by others designed to call attention to the lawyer for the purpose of promoting his professional employment. In every case, of course, the situation must be wholly free from any actual or apparent suggestion or connivance on the part of the lawyers in their own interest."

In the opinion of this Committee, the publication of the pamphlet with the knowledge or consent of the attorneys is a decided violation of Rule 2 and of Canon 27 on the part of the attorneys. It is also improper to even carry the names of the attorneys on such a pamphlet.

EDITOR'S NOTE: See Opinion No. 289, *infra*; cf. Opinions Nos. 241, 256, *supra*.

Opinion No. 269 (January 17, 1962)

ATTORNEY-CLIENT — ADVERSE INTERESTS — CONFIDENTIAL COMMUNICATIONS. An attorney who formerly was co-counsel for executors of a decedent's estate and for the testamentary