

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-344
Issued: March 1991

Since the adoption of the Rules of Professional Conduct in 1990, the Kentucky Supreme Court has made substantial revisions to the rules governing the advertisement of legal services. For example, this opinion refers to Rule 7.2, which was revised and renumbered as Rule 7.20. Lawyers should consult the current version of the rules and comments, SCR 3.130 (available at <http://www.kybar.org>) and the Attorneys' Advertising Commission Regulations, before relying on this opinion. KBA E-429 also addresses the issues raised by this opinion.

Question 1: “May a Kentucky lawyer participate in “cooperative” advertising?”

Answer 1: Qualified Yes.

Question 2: May a Kentucky lawyer participate in for-profit lawyer referral service?

Answer 2: No.

OPINION

The first question is a moving target, since cooperative advertising has no certain meaning. If all that is meant is advertising paid for by a group of lawyers, then the answer must be a qualified “Yes”, since it is permissible to pay for advertising. Rule 7.2. On the other hand, the Advertising Commission or other enforcement body may wish to require that one or more of the participating lawyers put their names in/on the ads. Furthermore, all lawyers will presumably bear responsibility for the content of the ads. It should also be noted that the Supreme Court has not approved of trade names, and many cooperative advertising plans appear to be efforts to operate under a trade name.

In any event, this rather abstract question involves questions that are best directed to the court-appointed Advertising Commission.

Question 2 must be answered “No” in light of the language of Rule 7.2(b). The Committee does not answer Constitutional questions .

The Committee doe not review, screen, approve, certify, or provide legal services to the operators of or participants in advertising and referral plans. Interested lawyers must use their own judgment and participate at their own risk.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.