

FORMAL OPINION NO. 6*

CONDUCTING AN INSURANCE ADJUSTER'S BUREAU
FROM LAW OFFICE

A question closely related to the subject matter dealt with in our Opinion No. 4 has been submitted for our consideration. In Opinion No. 4 we concluded that an attorney desiring to operate a real estate brokerage office, in order not to violate Canon 27 of the Canons of Ethics, should conduct such a business in a separate office, under a non-legal name, using distinct letterheads and without advertising or solicitation of any kind.

The present inquiry is whether an attorney may conduct an insurance adjuster's bureau from the same office.

The impropriety of conducting such a business has been comprehensively dealt with by the Standing Committee on Professional Ethics and Grievances of the American Bar Association in its Opinion No. 47, wherein the Committee observed:

"It is not necessarily improper for an attorney to engage in a business; but impropriety arises when the business is of such a nature or is conducted in such a manner as to be inconsistent with the lawyer's duties as a member of the Bar. Such an inconsistency arises when the business is one that will readily lend itself as a means for procuring professional employment for him, is such that it can be used as a cloak for indirect solicitation on his behalf, or is of a nature that, if handled by a lawyer, would be regarded as the practice of law. To avoid such inconsistencies it is always desirable and usually necessary that the lawyer keep any business in which he is engaged entirely separate and apart from his practice of the law and he must, in any event, conduct it with due observance of the standards of conduct required of him as a lawyer.

"Some businesses in which laymen engage are so closely associated with the practice of law that their solicitation of business may readily become a means of indirect solicitation of business for any lawyer that is associated with them. Opinions 31 and 35. The adjustment of claims, the incorporating of companies, and the handling of matters before governmental commissioners and boards and in government offices fall within such classifications. It is difficult to conceive how a lawyer could conduct a claim adjustment bureau, a company for the organization of corporations, or a bureau for securing income tax refunds, without practicing law. In performing the services which he would ordinarily render in connection with any of these activities, his professional skill and responsibility as a lawyer would be engaged. The fact that a layman can lawfully render a certain service does not necessarily mean that it would be professional service when rendered by a lawyer. On the contrary, lawyers are frequently called upon to render such service for the very reason that it can be better rendered by a lawyer.

"The adjustment of insurance claims by a lawyer is professional employment. In performing such a service his professional skill and responsibility are engaged. He cannot properly render legal services to a lay intermediary for the benefit of its patrons. Opinions 8, 31, 35, 41 and 56. Furthermore, the investigation and adjustment of insurance claims must frequently lead to some litigation, so that the solicitation of business by a bureau handling them must readily lend itself as a means of procuring professional employment for any lawyer in general practice who may be interested in or connected with it." Drinker, Legal Ethics, pp.222-223.

We concur in the conclusions as stated in the above-quoted Opinion and wish to add that an attorney conducting

an insurance adjuster's bureau should do so under a non-legal name without reference on his shingle or letterhead to the fact that he is an attorney.

DATED this 30th day of October, 1957.

*See, DR 2-102(A) and DR 2-103, Idaho Code of Professional Responsibility; I.S.B. Opinions No. 103 (February 24, 1981); 4 (June 13, 1957). Cf., I.S.B. Opinion 109 (November 30, 1981).