

FORMAL OPINION NO. 56*

The Committee has considered the following questions:

1. Whether a CPA can hold himself out as both a CPA and an attorney;
2. Whether he can practice law and accounting at the same time, including acting as attorney and accountant for one company.

In a prior Ethics Committee Opinion (No. 11), the Committee apparently followed the New York City Ethics Committee rulings, which would allow an attorney to:

1. Carry the designation of CPA on his law office door, professional card and letterheads and practice both professions from the same office;
2. Represent a client in a dual capacity using his knowledge and skill in both professions for the benefit of his client, but may charge for his services so rendered as an attorney only;
3. Permit an attorney to indicate in directories available to the public, such as the yellow pages of a telephone directory, that he has a specialty or limits his practice.

Although that opinion appears to correspond with the New York City Committee's opinion, this Committee would follow the majority of the opinions, and it is our opinion that under both the Canons of Professional Ethics and the Code of Professional Responsibility, the practices set out under Nos. 1 and 3 of the former opinion are improper.

American Bar Association Professional Ethics Opinion No. 272 provides: "That a lawyer should be precluded from holding himself out, even passively, as employable in another independent professional capacity."

The opinion further provides, however, that no provision in the Canon precludes an attorney from being a CPA or from using his knowledge and experience in accounting in his law office.

It is the Committee's opinion as to question No. 1, that under the Code of Professional Responsibility, DR 2-102(e), it is quite clear that a lawyer engaged both in the practice of law and another profession or business, may not indicate on his letterhead, professional card, office sign or any publication, that he is both an attorney and a CPA. This also seems clear from DR 2-105, prohibiting a lawyer from holding himself out publicly as a specialist, or as limiting his practice, except in the case of a patent or trademark attorney, or an attorney engaged in admiralty practice.

The answer to Question No. 2 would seem to be a little more difficult. No where can the Committee find in the Canons of Professional Ethics, or in the Code of Professional Responsibility any prohibition against a lawyer, who is also a CPA, from using his knowledge or expertise as a CPA in his practice as long as the billing for his services is designated as a billing for legal services rather than accounting services. There are indications in some of the opinions of the former Canons of Ethics (sic) that a lawyer could not, as a practical matter, carry on an independent accounting business from his law office without violating the former Canons of Professional Ethics. The Committee thinks this is true, both under the Canons of Professional Ethics and the spirit of the Code of Professional Responsibility.

It is hard to imagine how such a practice could be maintained without funnelling business to his law practice from his accounting practice, and also from indirectly advertising or indicating a specialty in the law practice, or a limitation in practice prohibited by the Code of Professional Responsibility. (DR 2-105).

While there has been disagreement in the opinions as to whether a lawyer, who is also a CPA, could maintain two distinct offices, one for the practice of law, and one for the practice of accounting, it would seem to be almost impossible to do so without some funnelling of business

from one profession to the other, and without, to some extent, indicating a specialty in the practice of law.

Finally, whether an attorney for a company could also be the company's accountant, is a difficult question. As indicated previously in this opinion, there appears to be no impropriety in an attorney using his knowledge of accounting in his law practice conditioned on his billing for legal services only. Where one person acts as attorney and accountant for a company, it would seem that he is going further than using his knowledge of accounting in serving the company as a lawyer. As a practical matter, he is being retained both as a lawyer and as an accountant, which would seem to violate the spirit of both the former Canons of Professional Ethics and the Code of Professional Responsibility, which seem to preclude a lawyer from holding himself out, even passively, as employable in another professional capacity.

Summarizing, it is the opinion of the Committee, while it might be possible for a person to maintain separate law offices and CPA offices, it would be extremely difficult to do so without funnelling business from one profession to the other. It is also the opinion of the Committee that a lawyer cannot in any way designate, except in law directories certified by the American Bar Association, that he is a specialist, or limits his practice, thus he could not indicate on his professional card, shingle, or in any other manner, except as heretofore mentioned, that he is an accountant or a CPA.

Finally, it is the Committee's opinion that though there is no reason why a lawyer cannot use his knowledge of accounting in his legal practice, if he bills for legal services only, or is retained as a lawyer only, he may not be retained by a company or individual as their attorney and also as their accountant.

DATED this 15th day of March, 1972.

*This opinion has been abandoned. See, I.S.B. Opinion No. 109 (November 30, 1981). Cf., I.S.B. Opinion No. 103 (February 24, 1981).