

FORMAL OPINION NO. 45*

The following inquiry has been submitted to the Committee for its consideration and opinion:

A firm of attorneys maintains offices in City A and City B. Once a week one of the firm travels to City B and in doing so passes through City C. Is there anything unethical in listing the City B telephone number in City C telephone directory?

The solution of this problem involves an interpretation of Canon 27, which prohibits the solicitation of professional employment.

In the case of telephone listings the guiding factor would appear to be whether the listing is primarily to provide a service to the client or if a form of advertising. It is necessary to balance the public interest against the incidental publicity accorded the attorney or firm maintaining the telephone listing. It would seem that if the attorney or firm intends to maintain an office and office hours in Town C and it is not practical to maintain phone service throughout the week at that office, the convenience to the public of the listing of Town A or Town B number in the directory for Town C so that appointments might be made in the Town C offices, would probably outweigh the incidental publicity gained by the listing. If the firm does not intend to maintain such an office and office hours in Town C, but is maintaining the listing to enable people to contact the office in Town B to set up appointments in that office, the listing in Town C would be primarily a method of soliciting business and thus be in violation of Canon 27 of Professional Ethics.

DATED this 30th day of March, 1966.

*Canon 27 and earlier versions of the disciplinary rules prohibit advertising as a means of solicitation and thus condemned telephone listings in an area where a lawyer did not have existing clients. Currently, the disciplinary

rules only prohibit advertising which is misleading as the term is defined in the disciplinary rules. See, DR 2-101(B), Idaho Code of Professional Responsibility. Thus, although the current rules would not condemn the practice of listing the attorney's name in a remote directory, it is conceivable that a telephone listing in a remote directory may be misleading if it creates the unjustified expectation that the attorney is capable of adequately representing clients in the remote area.