

INFORMAL OPINION NO. 107

The Ethics Committee has been requested to rule on the propriety of the act of advertising in a newspaper by an attorney purportedly acting on behalf of unidentified clients, which advertising seeks a baby for adoption by the clients. The advertisement offers payment of medical expenses under § 18-1512, Idaho Code.

In the opinion of the Committee, such an advertisement could possibly constitute, primarily, an advertisement for the attorney as opposed to the purported purposes of the advertisement. If such fact is apparent, the advertisement would be violative of DR 2-101(D) which provides:

". . . A paid advertisement must be identified as such unless it is apparent from the context that it is a paid advertisement."

If the advertisement does not identify such as a paid advertisement, the same constitutes an advertisement for the lawyer as opposed to an advertisement to obtain certain results on behalf of the client.

The advertisement, in the opinion of the Committee, is violative of other portions of DR 2-101 concerning publicity and advertising.

Specifically, subparagraph B(3) provides:

"B. Without limitation a false, fraudulent, misleading or deceptive statement or claim includes a statement or claim which:

"(3) is intended or is likely to create an unjustified expectation. . .

"(7) contains a representation or implication that is likely to cause a person of ordinary understanding

to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive."

Subparagraph C(6) is possibly violated, which states:

"6. Is intended or is likely to attract clients by use of showmanship, puffery, self-laudation or hucksterism, including the use of slogans, jingles or garish or sensational language or format."

DR 7-104(2) is also applicable, which states:

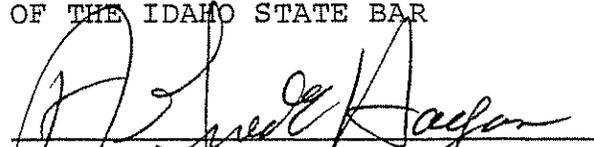
"During the course of his representation of a client, a lawyer shall not:

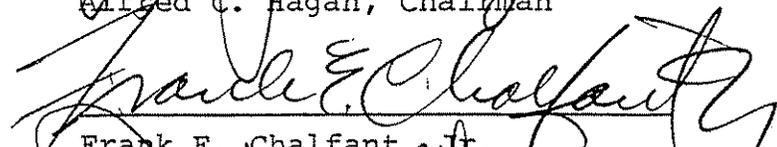
"1. . . .

"2. Give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of his client."

DATED this 28th day of August, 1981.

COMMITTEE ON ETHICS AND
PROFESSIONAL RESPONSIBILITY
OF THE IDAHO STATE BAR


Alfred C. Hagan, Chairman


Frank E. Chalfant, Jr.


Dean J. Miller