

Committee Opinion  
June 8, 1988

LEGAL ETHICS OPINION 1073

ADVERTISING – SOLICITATION.

You advise that a certain townhouse development advises potential buyers that the seller will deduct \$500 from the closing costs if the buyer uses a designated attorney. These representations are made both verbally and in writing by sales agents for the townhouse development.

You wish to know whether or not the designated attorney is violating DR:2-103 by accepting employment as a result of the solicitation by the townhouse development.

Disciplinary Rule 2-103 states that:

A lawyer shall not, by in-person communication, solicit employment as a private practitioner for himself, his partner, or associate or any other lawyer affiliated with him or his firm from a nonlawyer who has not sought his advice regarding employment of a lawyer if:

(1) Such communication contains a false, fraudulent, misleading, or deceptive statement or claim; or

(2) Such communication has a substantial potential for or involves the use of coercion, duress, compulsion, intimidation, threats, unwarranted promises of benefits, overpersuasion, overreaching, or vexatious or harassing conduct, taking into account the sophistication regarding legal matters, the physical, emotional or mental state of the person to whom the communication is directed and the circumstances in which the communication is made.

In-person communication means face-to-face communication and telephonic communication.

Disciplinary Rule 2-103(E) states that:

A lawyer shall not accept employment when he knows or it is obvious that the person who seeks his services does so as a result of any person's conduct which is prohibited under this disciplinary rule.

Nothing within the letter you attached appears to contain a false, fraudulent, misleading or deceptive statement or claim. Accordingly, the Committee opines that the representations contained in the questioned document do not violate the disciplinary rules.

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