

Committee Opinion
February 8, 1994

LEGAL ETHICS OPINION 1577

"900" TELEPHONE LINE FOR
PROVIDING GENERAL BANKRUPTCY
INFORMATION.

You have presented a hypothetical situation in which Attorney, at no cost, has furnished answers to general requests for information about bankruptcy to telephone inquirers. Attorney has grouped the questions by topic and is prepared to record the questions and answers and make them available to the public over a "900" telephone line. Attorney will not record an actual caller, nor will he engage in dialogue with a caller on the "900" line. Attorney will advertise the telephone line as "Bankruptcy: general information line". The message will conclude with the caller being advised to consult legal counsel for his own specific individual needs.

You have asked the committee to opine whether, under the facts of the inquiry, Attorney may properly furnish general information about bankruptcy by use of pre-recorded information over a "900" line, provided he advertises the line as "Bankruptcy: general information".

The appropriate and controlling Disciplinary Rules related to your inquiry are DR:2-101(A) which provides that a lawyer shall not use any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim; and DR:2-101(B) which provides, in pertinent part, that a public communication for which a lawyer has given value must be identified as such unless it is apparent from the context that it is such a communication. Further guidance is available in EC:2-4 which cautions that "[t]alks and writings by lawyers for laypersons should caution them not to attempt to solve individual problems upon the basis of the information contained therein."

The committee has previously considered, in LE Op. 1328, the propriety of a lawyer's advertisement stating that an attorney would answer all legal questions over the telephone for a period of one year in return for a specified sum. The committee believes that, in the facts you pose, Attorney's advertisement is distinguishable from that in LE Op. 1328 since there is no in-person communication, and thus, no attorney-client relationship established.

Thus, the committee is of the opinion that Attorney's use of the "900" line would be proper, provided several conditions are met. First, the message should include a statement which clarifies that the message is general information only and not legal advice, and which cautions the listener against trying to solve problems based on the message's general information. See EC:2-4. In addition, the message should not contain any false, fraudulent, misleading, or deceptive statements. Finally, Attorney must assure that the advertisement would indicate to callers that: (a) they will be charged for the call; (b) the content includes an advertising message; and (c) there are substantial limitations as to the content's information, as it is of general applicability. See New York State Legal Ethics Opinion 625 (2/14/92), ABA/BNA Law. Man. on Prof. Conduct, 1001: 6103.

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