

Committee Opinion
April 10, 1984

LEGAL ETHICS OPINION 558

SOLICITATION, ADVERTISING; LEGAL
FEES; INDEPENDENCE – BARTER
SYSTEM.

An attorney joins a barter system in which a "trade account" is established in his name. The attorney may "purchase" goods or services available from other members, incurring a corresponding "debit" on his account. Another member seeking legal services is referred to the member attorney by the exchange broker. Upon rendering such services, the attorney's trade account is appropriately credited. For his services, the exchange broker collects a 10% fee on each transaction, including legal fees.

1. The barter system does not violate rules pertaining to publicity, solicitation, advertising so long as the information is not "false, fraudulent, misleading, or deceptive." [DR:2-101(A), DR:2-103(A)]
2. It is improper for the attorney to share his legal fees with the non-lawyer exchange broker, whether in cash or in kind. [DR:3-102, DR:5-106(A)(2)]
3. It is improper for the attorney to receive fees in kind prior to their being earned without segregating the goods and services until earned in the same manner as is required for a cash retainer. [DR:9-102]
4. Whether a legal fee is paid in cash or in kind, the fee shall be reasonable. [DR:2-105(A)]
5. A barter system does not implicitly burden the independence of the **attorney. However, to the extent to which his independence is affected**, the attorney must obtain the consent of the client after full and adequate disclosure under the circumstance. [DR:5-101(A)]

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