

## Utah Ethics Opinions

1979.

67. USB EAOC Opinion No. 67

Utah State Bar

Ethics Advisory Opinion No. 67

Approved September 21, 1979

**Summary:** An announcement of availability of legal services to lawyers must be dignified and must avoid "representations of special competence or experience."

**Comments:** See *In re Utah State Bar Petition*, 647 P.2d 991 (1982)

**Fact:** An attorney in Utah proposes to send copies of the letter attached hereto to members of the bar; seeking to provide pension planning services to those attorneys in need of the same for their own clients. Notification of such availability is provided for in Canon 2, DR 2-105(A)(3) as follows:

"A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once a calendar year, but it may be published periodically in legal journals."

**Opinion:** The restrictive portion of the above cited rule prohibits "representation of special competence or experience" and requires that they be "dignified." The inclusion in the first paragraph of the letter that the services are available at "a very modest cost appears to the Committee to be an unwarranted sort of puffing and one that is unnecessary in light of the second paragraph, which states the fee range available. Furthermore, the third paragraph, stating that the firm presently handles "a large number of professional corporations" touts a special competence. Also, the first sentence of the last paragraph, citing "efficient service" is, in the opinion of the Committee, a representation of "special competence or experience." Therefore, the letter goes beyond what the rule permits.

It is suggested that the letter be amended to delete the portions referred to or to rephrase them. Also, the Committee wishes to point out the restrictions on the

number of such letters which can be distributed, only once in a calendar year, and to note that such legal services do not escape the fiduciary duty owed by a lawyer to his clients, be they lay persons or other lawyers.

Rule Cited:

Canon 2