

ADVISORY ETHICS OPINION 79-09

SYNOPSIS:

The simple fact of membership by a law firm, as an associate member in an organization entitled “The Associated General Contractors of Vermont,” or by representation, by such law firm, of other members of such organization does not violate the Code of Professional Responsibility.

FACTS:

The Associated General Contractors of Vermont is an association of persons and businesses engaged in building and highway construction within the state of Vermont, organized for the purposes of promoting the interests of the construction business in Vermont generally, within the limits imposed by the anti-trust statutes. Its functions apparently include public relations, lobbying, and educational programs for members of the construction business.

The By-Laws of the Associated General Contractors of Vermont provide for Associate Members. An Associate Member may be “any person, partnership, corporation, proprietorship or firm not directly engaged in the business of contracting but whose interests are closely allied therewith. . . .” A Vermont law firm has submitted the question, in the following words: “Is there any reason why our firm cannot hold an Associate Membership in the organization known as the Associated General Contractors of Vermont?”

DISCUSSION:

There is, of course, no provision of statute, the rules of the Supreme Court, or the Code of Professional Responsibility, expressly preventing any lawyer or law firm from becoming a member of any organization he, or she, or it wishes. It would appear obvious, however, that it would be improper for a lawyer or firm to become a member of any organization, any of the purposes or functions of which conflicted with the duties and functions of lawyers under the Code of Professional Responsibility. It appears, therefore, that to answer the question as phrased, in the negative, it would be necessary to be completely informed as to all of the functions and purposes of the Associated General Contractors of Vermont, and to review each such function and purpose in light of all the provisions of the Code. The time required for such an analysis would obviously be prohibitive.

After discussion by the Committee, it appears that, as a practical matter, two specific “danger areas” are most likely to require consideration in attempting to answer the question presented:

- (1) Whether the law firm, as an Associate Member of the Associated General Contractors of Vermont, would receive publicity through the organization, the nature of which would be violative of the restrictions upon advertising by lawyers as set forth in the Code of Professional Responsibility;
- (2) Whether it could be anticipated that, as a result of the law firm’s membership in the organization, other members of the organization, who had not previously been clients of the law firm, would become clients of the law firm; in which case, the dues paid by the law firm to the organization could be construed as a “thing of value,” given to an “organization,” to recommend or secure the employment of the firm by a client, or as a reward for having made a recommendation resulting in its employment by a client, in violation of DR 2-103 (B) of the Code of Professional Responsibility.

CONCLUSION:

While the nature of the question presented precludes a definite answer in the negative, the Committee is unaware of any provision of the Code of Professional Responsibility that would be violated by the simple fact of membership by a law firm, as an Associate Member, in the organization entitled “The Associated General Contractors of Vermont,” or by the representation, by such law firm, of other members of such organization, as clients of the firm. It is the opinion of the Committee, however, that there are least possibilities for violations, after assuming membership, of the nature set forth in numbered paragraphs (1) and (2) above, and a law firm becoming a member of such an organization should be aware of these specific potential problem areas, and if necessary in the future, take steps to avoid violations arising out of them.