

ADVISORY ETHICS OPINION 93-10

SYNOPSIS:

An attorney may conduct a legal practice and real estate brokerage from the same office. An attorney may advertise his or her real estate business by stating he or she is also an attorney and has represented buyers and sellers for a number of years. An attorney may represent to the clients and customers of his or her real estate business that he or she is an attorney with experience in real estate transactions.

FACTS:

Attorney A is a lawyer and a licensed real estate agent. At present he maintains two separate offices for each business and profession. In an effort to downsize both his law practice and his real estate agency, he wishes to consolidate them into a single office. He would like to display advertisements for each business at the entrance. Further, he wishes his real estate advertisements and client correspondence to state he is an attorney with experience in real estate transactions.

He does not represent as an attorney, a buyer or seller in any real estate transaction in which his real estate agency is involved.

It is assumed the lawyer is licensed in Vermont as an attorney and a real estate broker.

DISCUSSION:

Prior to 1986 there were at least two opinions issued by the Vermont Bar Association's Committee on Professional Responsibility which restricted a lawyer who was engaged in the practice of law and another profession or business from advertising both professions on signs, business cards or letterheads.¹ Since 1986 the restrictions on attorney advertising have been repealed, including DR 2-102(E). "Modern discussions of legal ethics focus on principles of freedom of expression, including the constitutional doctrine of commercial speech. In accordance with these principles, not all advertisements are barred by the Disciplinary Rules, only false or misleading ones."²

In Opinion 88-10, the Committee approved the listing of multiple professional qualifications by a lawyer on business cards, letterheads and advertising material.

CONCLUSION:

A lawyer may now maintain a real estate brokerage and a law practice in one office subject to the restriction of DR 3-103 of the Code of Professional Responsibility, which prohibits a *partnership* with a non-lawyer if any of the activities of the partnership consist of the practice of law. In the situation addressed in this opinion, the lawyer and the real estate broker is the same person.

Therefore, the Code does not prohibit the attorney in advertising the real estate brokerage from including among his or her qualifications that he or she is an attorney with experience in real estate transactions. The lawyer may not state that he or she is a *specialist* in real estate matters (DR-105). This would also apply to correspondence to clients and customers of the real estate business. The advertising must not be false or misleading.³

¹ Opinion Nos. 81-9 and 83-2. These opinions were based upon DR 2-102(E) of the Code of Professional Responsibility.

² Code of Professional Responsibility EC 2-9.

³ Code of Professional Responsibility DR 2-101. See also DR 2-104 and EC 2-10.