



ILLINOIS STATE
BAR ASSOCIATION

ISBA Advisory Opinion on Professional Conduct

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This Opinion was **AFFIRMED** by the Board of Governors in July 2010. Please see the 2010 Illinois Rule of Professional Conduct 7.2. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

Opinion Number 85-1
October 4, 1985

Topic: Advertising and solicitation; Attorney sponsorship of athletic team

Digest: An attorney may be a financial sponsor of an athletic team and such sponsorship may be publicized in connection with matters relating to the team.

Ref: Canon 2
Rules 2-101(a); 2-101(c); 2-105(a)(3)
ISBA Opinion No. 125
Bates v. State Bar of Arizona, 433 U.S. 350 (1977)
Matter of R.M.J., 455 U.S. 191 (1982)
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio, 471 U.S. 626, 105 S.Ct. 2265 (1985)

FACTS AND QUESTION

An attorney proposes to be a financial sponsor of an adult softball team. The attorney inquires whether such sponsorship may be publicized in connection with publications of the team's standing in its league.

OPINION

The proposed publication of the attorney's name in connection with the team standings would constitute a form of attorney advertising.

The propriety of attorney sponsorship of athletic teams, and the publicizing of same, was dealt with in ISBA Opinion 125. Decided prior to Bates v. State Bar of Arizona, 433 U.S. 350 (1977). That opinion restricted such publicity to the name of the individual attorney and held that the publication could not include either the attorney's profession or the name of his firm. The Opinion thus essentially prohibited any form of advertising in connection with the team sponsorship.

ISBA opinion 612, subsequent to the Bates decision, recognized that "advertising is no longer per se unprofessional," but pointed out that the decision allowed "reasonable restrictions on the time, place and manner of advertising."

Following the promulgation of the above Opinion and of the Bates decision, the present Illinois Code of Professional Responsibility was adopted in 1980.

Present Rule 2-101(a) provides that a lawyer may publicize himself as a lawyer through any commercial publicity or other form of public communication provided that the communication meets the conditions set out in the Rule. Further, the Rule allows the use of the firm name provided that the name of at least one lawyer responsible for the content of the communication is included.

Rule 2-101(c) requires that public communications be "dignified" in manner, but the form of communication suggested by the inquiry does not appear to be inherently undignified.

Although not necessary to our opinion, it may be noted in passing that the holdings in Matter of R.M.J., 455 U.S. 191 (1982), and Zauderer, 471 U.S. 626, 105 S.Ct. 2265 (1985), may override, in other cases, any issue as to the dignity or lack thereof in any particular form of public communication. The U.S. Supreme Court in that case held that commercial speech, including attorney advertising, which is not misleading in content or method, is protected under the First Amendment, and can otherwise be restricted only to the extent necessary to further a substantial interest of the state. We leave for further consideration the question of whether dignity in attorney advertising constitutes a substantial interest of the state for purposes of the Matter of R.M.J. and Zauderer rulings.

Accordingly, the attorney may publicize his sponsorship of the athletic team in the manner suggested, and ISBA Opinion 125 is modified to the extent inconsistent with this Opinion.