

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OFFICE OF SECRETARY

OPINION 93-5

Issued June 18, 1993

[Withdrawn- by Board on October 10, 1997 due to amended DR 2-101 (B)(2), eff. August 16, 1993.]

SYLLABUS: Under amended Disciplinary Rule 2-101(B) (2) (a) and (b), effective January 1, 1993, it is not proper for an attorney to list his or her name in the classified section of a telephone directory under a section entitled "Areas of Practice," except that the rule through its reference to DR 2-105 (A) (1) permits an attorney admitted to practice before the United States Patent Office or engaged in trademark or admiralty practice to list under those classifications or headings.

Under amended Disciplinary Rule 2-101 (B) (2) (a) and (b), effective January 1, 1993, it is not proper for an attorney to advertise in the classified section of a telephone directory through a display advertisement.

OPINION: This opinion addresses questions regarding attorney advertising in telephone directories as governed by the amendments to Disciplinary Rule 2-101, effective January 1, 1993.

1. Is it proper for an attorney to list his or her name in the classified section of a telephone directory under a section entitled "Areas of Practice"?
2. Is it proper for an attorney to advertise in the classified section of a telephone directory through a display advertisement?

Disciplinary Rule 2-101 of the Ohio Code of Professional Responsibility governs publicity by attorneys. Since the adoption of the Code in Ohio on October 5, 1970, Disciplinary Rule 2-101 has been amended several times--effective November 20, 1975, November 28, 1977, February 12, 1979, June 11, 1979, March 1, 1986, and January 1, 1993. Under the 1993 amendments, telephone advertising is specifically governed by Section (B)(2) of Disciplinary Rule 2-101 set forth below.

DR 2-101(B) Subject to the limitations contained in these rules:

(2) A lawyer or firm of lawyers licensed to practice law in Ohio may permit inclusion of his, her, or its name, address, and telephone number in a telephone or city directory, subject to the following standards:

- (a) The lawyer's or the firm's name, address, and telephone number, alone, may be listed alphabetically in the residential, business, or classified sections.
- (b) Listing in the classified section shall be under the general heading "Lawyers" or "Attorneys," or, if a lawyer or a firm meets the requirements of DR 2-105 (A) (1), under the classification or heading identifying the field or area of practice in which such lawyer is so qualified.
- (c) Nothing contained in this rule shall prohibit a lawyer or law firm from permitting inclusion in reputable law lists and law directories, intended primarily for the use of the legal profession, of such information as has traditionally appeared in those publications.

Question One

In Opinion 89-006 (1989) the Board considered the issue of whether a lawyer may be listed in a telephone directory under a heading entitled "Attorney-Fields of Practice" and did not find it improper under the rules. However, that advice is no longer current based upon the subsequent amendments to DR 2-101 that became effective January 1, 1993.

The standards set forth in subdivision (a) and (b) of amended Disciplinary Rule 2-101(B) (2) are quite specific. Under subdivision (a), name, address, and telephone number, alone, may be listed alphabetically in residential, business, or classified sections. Under subdivision (b), the classified listing shall be under the general heading "Lawyers" or "Attorneys." There is only one narrow exception within subdivision (b)--if a lawyer or firm meets the requirements of DR 2-105(A) (1), namely, attorneys admitted to practice before the United States Patent office or engaged in trademark or admiralty practice, then the lawyer or firm may be listed under the classification or heading identifying those fields or areas of practice.

Based upon the specific language of the rule, this Board can reach but one conclusion as to the question presented. The Board's advice is that under amended Disciplinary Rule 2-101 (B) (2) (a) and (b), effective January 1, 1993, it is not proper for an attorney to list his or her name in the classified section of a telephone directory under a section entitled "Areas of Practice," except that the rule through its reference to DR 2-105 (A) (1) permits an attorney admitted to practice before the United States Patent Office or engaged in trademark or admiralty practice to list under those classifications or headings.

Question Two

The standard within Disciplinary Rule 2-101 (B) (2) (a) is that "[t]he lawyer's or the firm's name, address, and telephone number, **alone**, may be listed alphabetically in the residential, business, or classified sections" (emphasis added). Display advertisements are not alphabetical listings and fall outside the standard created within the rule.

Thus, based on the specific language of the rule, this Board can again reach but one conclusion. The Board's advice is that under amended Disciplinary Rule 2-101 (B) (2) (a) and (b), effective January 1, 1993, it is not proper for an attorney to advertise in the classified section of a telephone directory through a display advertisement.

Advisory Opinions of the Board of Commissioners on Grievances and Discipline are informal, nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Code of Professional Responsibility, the Code of Judicial Conduct, and the Attorney's Oath of Office.