

Nebraska Ethics Advisory Opinion for Lawyers
No. 68-1

OPINIONS OF THE ADVISORY COMMITTEE ON MATTERS OF PROFESSIONAL ETHICS ARE LIMITED TO SITUATIONS IN WHICH A LAWYER SEEKS THE OPINION OF THE COMMITTEE AS TO THE ETHICAL PROPRIETY OF A COURSE OF ACTION IN WHICH HE DESIRES TO ENGAGE.

Article XI, Section 14, Rules Creating, Controlling and Regulating Nebraska State Bar Association

A member of the Association requests an opinion on the ethical conduct of other members of the Association. The inquiry is clearly based on facts which have already transpired and which could be the basis of charges against the other lawyers. Article XI, Section 14 of the Rules Creating, Controlling and Regulating Nebraska State Bar Association provides: "*** The Advisory Committee is further empowered in its discretion at the request of any member of the Association, to express its advisory opinion or give its interpretation upon rules of professional conduct where such question has not been previously determined and is not pending in any proceeding for a determination thereof."

It has long been the policy of the Advisory Committee to limit the rendering of opinion to situations in which a lawyer seeks the opinion of the Committee as to the ethical propriety of a course of action in which he desires to engage.

The Committee has been careful to refrain from expressing an advisory opinion as to the correctness of the conduct of a lawyer other than the inquirer, or where the facts or the acts inquired about have transpired or have been accomplished as distinguished from being contemplated or prospective, or in any case where it seems likely that the matter may come before the District Committee in Inquiry (Rules XI, 3-7) and subsequently before the Advisory Committee for review

(XI, 8).

It is believed that the effectiveness of any action which the Advisory Committee might deem appropriate in such review proceedings would or might be seriously affected if the Committee had already by an opinion passed upon the very practices in question.

The Committee has again reviewed its policy and concludes that under these circumstances it should not render an opinion.

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