

**STATE BAR OF NEVADA
STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY**

**Formal Opinion No. 12
May 10, 1989**

QUESTION - May a private attorney or law firm send companies engaged in international business a form letter representing that the attorney or firm offers legal services in the areas of import-export and customs law?

ANSWER - Yes, with some qualifications. The attorney or firm must possess no information indicating that any recipient of the letter needs specific legal services in a specific matter; an attorney in the firm must have devoted at least 300 hours each year for the preceding two years in the field of practice being communicated to the public as a particular specialty of the firm; and the firm must comply with other requirements of SCR 198.

AUTHORITIES RELIED ON

Nevada Rules of Professional Conduct (Supreme Court Rules) 197, 198 (1987)

DISCUSSION

Supreme Court Rule 197 states that lawyers shall not solicit professional employment by mail from individuals with whom the lawyer has no family or prior professional relationship if the lawyer's motive is pecuniary gain. These unlawful solicitations do not include "letters distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful." As long as the attorney possesses no information indicating that a recipient of the letter needs services in a specific legal matter of the type provided by the attorney, then the general prohibitions of SCR 197 are not violated.

A separate issue is suggested by the communication to a targeted group that an attorney or firm offers services in a particular area of the law. Supreme Court Rule 198 states that an attorney may communicate that the attorney's practice is limited to a particular area of practice or that the lawyer practices primarily in a particular area. But this communication is allowed only if the attorney has devoted at least 300 hours in each of the preceding two years to the particular specialty and has completed at least six hours of accredited continuing legal education in the designated field during the preceding calendar year. The lawyer must notify the Board of Continuing Legal Education in writing that these requirements have been completed, specifying the courses, hours, and fields of practice. Also, the lawyer who communicates a field of practice pursuant to SCR 198 must keep time records to demonstrate compliance with the rule and make them available to the Board and to the State Bar Association on request. Finally, any communication to the public of a field of practice must identify the member or members of the firm together with their fields of practice and must be accompanied by the "Notice to the Public," as prescribed in SCR 198 (3) (a) and (b).

A final issue is whether a lawyer may communicate to the public that he or she practices in the specific area of "Import-Export and Customs Law." Supreme Court Rule 198 lists "Immigration and Customs Law" as an approved designation, but not "Import-Export and Customs Law." Nevertheless, SCR 198 specifies that a lawyer may communicate that the lawyer's practice is limited to the approved designations "and such others as are not false or misleading." As long as the representation that an attorney or firm practices "Import-Export and Customs Law" is not false or misleading, it does not violate SCR 198.

CONCLUSION

A private attorney or law firm may write to companies engaged in international business and offer legal services in the areas of import-export and customs law if the attorney or firm possesses no information indicating that any recipient of the letter needs specific legal services in a specific matter, the attorney or

an attorney in the firm devoted at least 300 hours each year for the preceding two years to the area of practice, the attorney complied with the other requirements of SCR 198, and the communication of the particular area of practice is not false or misleading.

This opinion is issued by the Standing Committee on Ethics and Professional Responsibility of the State Bar of Nevada, pursuant to SCR 225. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, its Board of Governors, any persons or tribunals charged with regulatory responsibilities, or any member of the State Bar.