

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-10
Issued: May 1975

- Question:** Where an individual, not a licensed attorney, distributes professional cards asserting he is a "Tax Law Consultant" is he engaged in the practice of law?
- Answer:** Yes.
- References:** RCA 3.020

OPINION

The definition of "The practice of law" as set forth in RCA 3.020 provides as follows:

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services. But nothing herein shall prevent any person not holding himself out as a practicing attorney from drawing any instrument to which he is a party without consideration unto himself therefor.

Although it is ordinarily contemplated that a violation of KCA 3.020 lies in the *rendering* of the defined service or services, naturally the advertising of the fact indicates the advertiser is or will render the service; indeed, if he does not deliver, he may be guilty of deceptive advertising. It follows that a business card containing the phrase "Tax Law Consultant" logically leads one to believe the bearer thereof will, for a consideration, render a service "involving legal knowledge or legal advice" in the tax field. There is a strong implication the advertiser will represent, counsel, and/or advocate for and in behalf of anyone desiring the service in connection with his tax "rights, duties, obligations, liabilities or business relations", especially since the card also contains the phrase "Enrolled to practice before the Internal Revenue Service ..."

In the opinion Kentucky State Bar Assn v. Bailey, 409 S.W.2d 530 (Ky. 1966) at pp. 530-531, the Kentucky Court of Appeals wrote:

For many years respondent has been filing for clients with the Kentucky Board of Tax Appeals petitions for review of adverse rulings entered by the Department of Revenue. These petitions have raised questions of statutory interpretation and constitutional law. They pertained principally to legal issues rather than accounting problems. We have no doubt, as the special commissioner found, that the nature of the work performed by respondent for his clients, in the matters upon which the complaint

was based, constituted the unauthorized practice of law under Rule 3.020 of this Court.

It will be noted that in Bailey, *supra* the respondent rendered a service very similar to that advertised herein.

Note to Reader

This unauthorized practice opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides in part: "Both informal and formal opinions shall be advisory only."