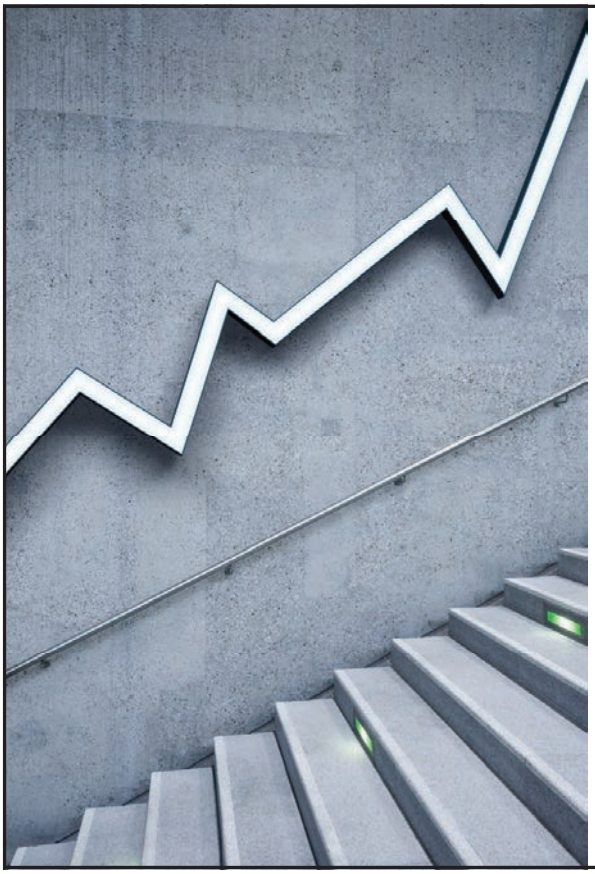


Attorney Ethical Duties, Disclosure, Advertising and the Unhappy Client

JESSICA HANZLIK & LIZ HICKSON

"I can take any truth; just don't lie to me."

- BARBRA STREISAND

What are the Parameters for Advertising?

- State Bar of Texas Advertising Rule 7.01
  - A lawyer shall not practice under a trade name, name that is misleading as to the identity of the lawyer(s) practicing under such name or firm name containing names other than lawyers in the firm except the names of a professional corporation, professional association, limited liability partnership or professional limited liability company may contain "P.C.," "L.L.P.," "P.L.L.C." or similar symbols and may use name(s) of deceased or retired members of the firm or predecessor firm.
  - A firm with offices in multiple locations may use the same name in each jurisdiction but must clearly identify the jurisdiction limitation on those lawyers not licensed to practice in a particular jurisdiction.
  - The name of a lawyer in a judicial, legislative, public executive or administrative position may not be used in the firm name during any substantial period in which the lawyer isn't actively and regularly practicing with the firm.

What are the Parameters for Advertising?

- State Bar of Texas Advertising Rule 7.01
  - A lawyer shall not hold her/herself out as a partner, shareholder or associate with one or more lawyers unless they are in fact partners, shareholders or associates.
  - A lawyer shall not advertise in the public media or seek professional employment under a trade or fictious name, except that a lawyer who practices under a firm name authorized under prior paragraph of this Rule may use that name in advertising or communication provided that name appears on letterhead, business cards, office signs, fees contracts and signature block of pleadings.
  - A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.02(a).

What are the Parameters for Advertising?

- Bankruptcy Code Section 528 – Debt Relief Agencies
  - No later than five (5) business days after first date of providing services but prior to petition being filed, you must execute a written contract to show clearly:
    - Services being provided; and
    - Fees being charged and terms of payment;
  - Must provide a copy of the fully executed and completed contract;
  - Clearly and conspicuously disclose in any advertisement that services are with respect to bankruptcy relief under this title;
  - **Clearly and conspicuously use the following statements in advertisement "We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code." or substantially similar statement.**

Fee Sharing – Can we, or can't we?

- Bankruptcy Code Section 504 – Sharing of Compensation
  - Except as provided in subsection (b), a person receiving compensation under section 503(b)(2) or 503(b)(4) of this title may not share or agree to share -
    - Any such compensation or reimbursement with another person; or
    - Any compensation or reimbursement received by another person under such sections.
  - Members, partners or regular associates in a professional association, corporation or partnership may share compensation or reimbursement with other members, partners or regular associates in such professional association, corporation or partnership.
  - This section shall not apply with respect to sharing or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.

UT LAW CLE | THE UNIVERSITY OF TEXAS | TEXASLAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: Attorney Ethical Duties, Disclosure, Advertising, the Unhappy Client

Also available as part of the eCourse
2020 Consumer Bankruptcy eConference

First appeared as part of the conference materials for the
16th Annual Conference on Consumer Bankruptcy Practice session
"Attorney Ethical Duties, Disclosure, Advertising, the Unhappy Client"