
E-76-6 Attorneys' participation in private organizations credit plan

The committee has been asked to consider the ethical propriety of attorneys participating in the Credit Plan of the Financial Services, Inc., a firm which proposed to market a credit plan for clients of attorneys.

The committee has previously gone on record in its Ethics Opinion E-75-1 as stating that interest may be charged on past due accounts of clients with the client's consent, and that the use of credit cards for the payment of legal services and expenses is permitted under the Code of Professional Responsibility, provided that certain guidelines enumerated in such opinion were followed. Further, the Professional Ethics Committee at its meeting September 26, 1975, examined and endorsed the Milwaukee Bar Special Committee Credit Card Report, which was developed through negotiations with Wisconsin Master Charge and Bank Americard. This program also received approval of the Board of Governors of the State Bar in December, 1975.

In its examination of the proposed Financial Services Plan for financing legal fees the stated purposes are to provide a revolving payment plan to clients; to provide systematic billing procedures; to reduce financial burdens and increase cash flow to law firms and provide a sound basis for collecting disbursements, and to enhance the image of the legal profession.

The committee further notes that prior to the attorney agreeing to place the client on this program, he will offer the client the option either to pay cash, to make other financial arrangements for payment of the fee or to participate in the plan. On accounts which the attorney previously has on his books, he must also give the same options to the client and secure the client's written consent to make the plan operative. Thus, a specific agreement must be reached between the attorney and client for use of this plan, and the client has the option to make other financial arrangements for his legal fees.

The committee also notes that the proposal includes preservation of the attorney-client privilege, and that it will be completely confidential. Billings which detail the actual professional services rendered and the time expended will be issued only by the attorney to the client. Billings which are distributed from

the Professional Financial Services will show only an accounts with a specific law firm and the balance due, with credits for previous payments. There will be no reference to specific work. In fact, the materials supplied to the committee show that the law firm reports only the client's dollar obligation for services and disbursements, with no specific references to individual cases or files.

In the event that an account is deemed uncollectible by Financial Services, it is transferred back to the law firm, so that there is full recourse arrangement. Thus, the firm "reassumes" the account in full. No legal action is taken by Financial Services on delinquent accounts.

There appears to be no restrictions on the type of legal work which may be financed, and there is no dollar restriction set by this program. Apparently the attorney will make such credit judgment in consultation with his client.

There is a further restriction in the proposal that all promotional materials and forms will be provided by Financial Services, and that all promotional material will require the approval of the State Bar of Wisconsin. Further, it is our understanding that no directory of any kind shall be printed nor will there be any other public announcement as to the names of individual attorney-members who subscribe to such a plan.

In carefully reviewing this plan, the committee does not note any features therein which would be ethically objectionable to the committee.

Likewise, the specific features in the plan, as noted above, are in accordance with the requirements of E-75-9 of this committee, *supra*.

Based upon this careful consideration of the proposed Financial Services Plan, the committee finds that such proposed plan is not objectionable from the standpoint of professional ethics. It should be added that this opinion does not purport to cover the question as to whether or not the charging of interest or the participation in a credit card plan may be subject to the Wisconsin Consumer Act or other Federal or State Statutes or Administrative Rules.