

DONALD E. COVEY

Lawyer

Telephone
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409 Main Street • P.O. Box 1766
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February 12, 1992

RE: Advisory Opinion 92-2

Dear

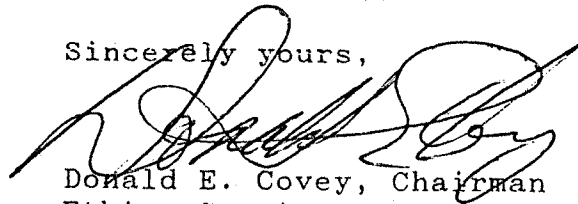
You state that you currently advertise your services in two newspapers. You inquire as follows: Is it acceptable to put in my advertisement that I accept Mastercard/Visa?

OPINION

Committee Member, Professor John F. Hagemann writes that there are 35 ethics committees which have addressed the question of acceptance of credit cards in payment of fees. He further writes that 34 of them have determined that the practice is acceptable within certain limitations. He finds that only Missouri prohibits the practice. Missouri's rationale appears to be that the credit card payment amounts to fee splitting with a lay agency.

It appears that Rule 7.2 permits the very discrete advertisement of cost and fee payment by credit card. The only caveat which appears currently applicable is that all statements in the advertisement must be truthful and correct.

Sincerely yours,



Donald E. Covey, Chairman
Ethics Committee

DONALD E. COVEY

Lawyer

Telephone
605-842-2601

409 Main Street • P.O. Box 1766
Winner, SD 57580

February 12, 1992

RE: Advisory Opinion 92-1

Dear

FACTS

A small town bar owner and an employee were arrested for the sale or distribution of an alcoholic beverage contrary to South Dakota Law and contrary to the terms and conditions of the bar owner's license. South Dakota Law provides that the licensee is vicariously liable for an employee's improper sale of alcoholic beverages.

Small town lawyer has previously represented both the bar owner and the employee in matters totally unrelated to the liquor business. Small town lawyer is also a part time city attorney. There is only one other lawyer in small town who is the state's attorney or prosecutor.

Bar owner and employee each seek the services of small town lawyer in their defense.

Small town lawyer makes a full disclosure of perceived possible conflicts in representing both codefendants in the class 2 misdemeanor prosecution. Each has expressed willingness to waive any conflicts. In addition, small town lawyer has discussed the situation with the mayor of the city. The mayor apparently represents that the city does not desire to seek any action against the owner's liquor license. Small town attorney accepts this as permission from the mayor to represent the codefendants.

The prosecutor has offered a negotiated plea but it is unclear whether the negotiated plea for each is independent of the other.

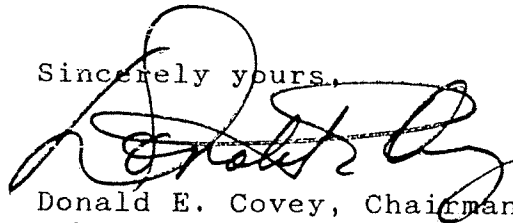
Does Rule 1.8(g) prohibit small town lawyer from representing the codefendants under the above facts?

OPINION

So long as small town lawyer is satisfied that he has complied with Rules 1.8(g); 1.7(b) and 1.11(a), he may continue to represent both defendants.

Small town lawyer must be satisfied and reasonably believe that the representation of both Defendants will not adversely effect the representation of the other client.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Donald E. Covey", written over a horizontal line.

Donald E. Covey, Chairman
Ethics Committee