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Standing Committee on Professional Ethics

July 18, 2018

Informal Opinion 18-05

Nominal Value Gift for Client Referrals

A lawyer who receives referrals of new clients, frequently from former or existing clients, asks if she may give a small thank you gift for such referrals. She indicates that the gift would be a ceramic coffee cup bearing her law firm's name and logo, or similar low-cost item. We conclude that giving a gift of such nominal value does not violate the Rules of Professional Conduct.

Rule 7.2(c) of the Rules of Professional Conduct provides, in part, as follows:

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may:

(1) pay the reasonable cost of advertisements

The Committee previously has concluded that a lawyer could not offer to compensate a client who referred another client to the firm by providing the referring client with reduction or reimbursement of fees. Conn. Bar Association Informal Opinion 92-24. Such an arrangement not only violates the prohibition on giving something of value for a referral, it also carries the risk that the lawyer's independent judgment could be compromised. *See* Rules of Professional Conduct, Rule 5.4(c) ("A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.").

Strictly construed, Rule 7.2(c) would prohibit giving even a nominal value gift for a referral. But as the Preamble to the Rules provides, "[t]he Rules of Professional Conduct are rules of reason. They are to be interpreted with reference to the purposes of legal representation and of the law itself."

The Committee's view is that a nominal value gift as a thank you to a client or other person who refers a client does not implicate the risks Rule 7.2(c) is intended to prevent. The gift is given after the referral, as a token of thanks and professional courtesy, rather than as compensation or inducement to make a referral. Nor, on the facts described, does the gift amount to a "thing of value." A coffee cup with the firm's name and logo, an item without

significant monetary value, is closer to being a form of advertising, the costs of which a lawyer may pay, rather than payment for a referral.

THE COMMITTEE ON PROFESSIONAL ETHICS

BY 
Marcy Tench Stovall, Chair