

Opinion 0303

Disciplinary Rule 3-101A states:

A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

Professor Simon has defined the practice of law as:

1. Representing another in court;
2. Preparing "instruments affecting real estate";
3. Preparing any "instrument affecting the disposition of property upon death";
4. Preparing pleadings for litigation in New York Courts.

see New York Simon's Code of Professional Responsibility Annotated, 2002 Edition, Page 328.

It appears that an individual who is not an attorney admitted in New York will be examining title with regard to the real estate and, presumably, will be preparing instruments affecting real estate. Thus, it does appear that the individual to whom the purchaser has requested _____ forward the title documents is practicing law.

Having determined that the individual in question is engaged in the unauthorized practice of law, the issue now to be determined is whether forwarding the documents to this individual constitutes aiding a non-lawyer in the unauthorized practice of law. An attorney aided a disbarred attorney in the unauthorized practice of law by employing him in her law office in violation of DR 3-101A, *In re Coletti*, 121 Ad2d 584. An attorney violated DR 3-101A by allowing a collection agency and its employees to use his name in letters and telephone calls without supervision, *In re Scheck* 171 Ad2d 33. The New York State Bar has opined that a lawyer representing a bank in a real estate transaction may delegate attendance at the closing to a paralegal, provided the delegation does not substitute for the direct relationship between the attorney and client, and, provided

the lawyer properly supervises the sufficiency and competence of all work delegated to the paralegal, N.Y. State Bar Op. 677 (1966).

There appears to be no decision or opinion which is directly on point in this matter. That is, the mere act of forwarding documents to a non-lawyer does not appear to be defined as aiding a non-lawyer in the unauthorized practice of law.

In order to avoid even the appearance of any impropriety in assisting a non-lawyer in the unauthorized practice of law, it is recommended that _____ deal directly with the purchaser. The courts have consistently held that all people have the right to represent themselves without violating statutes prohibiting the unauthorized practice of law, *Faretta v. California* 422 US 806 (1975).

Dealing directly with the purchaser, the inquiring attorney will avoid even the appearance of any violation of DR 3-101A.