



# Dear Ethics Lawyer™

## The Legal Ethics Project. Supporting professionalism with information.

**Q:** Dear Ethics Lawyer,

I have recently developed an expertise concerning a new and complex federal regulation of the importation of spirits as a result of my work for a liquor industry client. I would like to develop a practice in the area but do not have any other contacts in the industry. With the assistance of marketing folks, I have now developed an industry list and a slick promotional piece highlighting expertise on the new regulation that I want to mail to every company on the list. Are there any ethical issues?

**A:** The various state enactments of the Model Rules vary substantially in the attorney solicitation and advertising rules (Rules 7.1-7.3), so please examine the rule in effect in your jurisdiction and any others that are relevant. The current version of Model Rule 7.3 addresses "solicitation" of clients, defined as "a communication initiated by or on behalf of a lawyer or law firm directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter." It precludes solicitation by "live person-to-person contact" for the lawyer's or law firm's pecuniary gain, unless the contact is with a lawyer, a person with whom the lawyer or firm has a family, close personal or prior business relationship, or a "person who routinely uses for business purposes the type of legal services offered by the lawyer." It does not address or prohibit solicitation by other means.

You propose a written solicitation campaign, and therefore it falls outside the prohibition of the rule. Even if your solicitation were in person, it would probably fall within the exception for a person who regularly uses legal services of this type for business purposes. You must comply, however, with certain provision of Rules 7.1 (no false or misleading communications) and 7.2 (re paid referrals, statements concerning specialization, and inclusion of responsible lawyer contact information).

*The Ethics Lawyer*

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## About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 132 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to [mark.hinderks@stinson.com](mailto:mark.hinderks@stinson.com).

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.