

NOTICE TO THE BAR

Committee on Attorney Advertising Guideline 3

With the approval of the Supreme Court, the Committee on Attorney Advertising publishes for comment Attorney Advertising Guideline 3 which is derived from CAA Opinion 30 (revised). The proposed guideline addresses direct mail solicitation letters sent pursuant to *RPC 7.3(b)(5)* in foreclosure and other civil matters in which bankruptcy may be considered as a possible resolution. The request to publish for comment was made pursuant to *R.1:19A-2(c)*. The Committee on Attorney Advertising deems the adoption of this guideline to be necessary in clarifying the application of the Rules governing advertisements and other communications within its jurisdiction. The Guideline, if approved by the Supreme Court and adopted by the Committee on Attorney Advertising, will supersede Committee on Attorney Advertising Opinion 30, 178 *N.J.L.J.*627 (November 8, 2004) and 13 *N.J.L.*2354 (November 15, 2004), and Committee on Attorney Advertising Opinion 30 (Revised), 179 *N.J.L.J.*628 (February 7, 2005) and 14 *N.J.L.*288 (February 14, 2005).

Comments from the Bar are solicited before the proposed guideline is submitted to the Supreme Court for approval pursuant to *R.1:19A-2(c)*. Comments should be sent to the Committee on Attorney Advertising, Attention: Samuel D. Conti, Esq., Committee Secretary, Professional Services, Richard J. Hughes Justice Complex, P.O. Box 037, Trenton, New Jersey, 08625. Comments should be submitted by October 15, 2005.

Dated: August 9, 2005 /s/ George J. Kenny, Esq.

Chair, Supreme Court Committee on Attorney Advertising

Attorney Advertising Guideline 3

Written Solicitation to Represent Clients in Bankruptcy

Attorneys who seek clients by written solicitation from defendants in civil actions, including foreclosure actions, for which a bankruptcy proceeding is a possible resolution, must:

- 1) personally verify the accuracy of all statements contained in the solicitation letter, including the name and address of the addressee, and the specific nature of the litigation which must be recited in the body of the letter;
- 2) advise the prospective client that his or her name and the nature of the litigation was obtained by an appropriate inquiry under Rule 1:38;
- 3) provide the salutation to the individual to whom the letter is being sent;
- 4) include information sufficient to inform an unsophisticated individual of the potential pitfalls and disadvantages of a bankruptcy proceeding as follows:

The decision to file for bankruptcy is a serious choice. It is a remedy that may affect your credit and may affect your ability to use the bankruptcy code at a future time. Be sure to discuss the advantages and disadvantages of bankruptcy with any professional whom you are considering to represent you.

- 5) not attempt to indicate a special relationship, expertise, experience or knowledge which will or may provide a more favorable result than other licensed New Jersey attorneys;
- 6) not raise unjustified expectations or use language or format susceptible of unduly enticing a person because of possible economic or personal consequences of a judgment; and
- 7) not raise false hope for relief inapplicable to the individual person's circumstances.

