

1978 WL 207595 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 19, 1978

*1 Mr. Louis L. Rosen
Assistant Director
South Carolina Court Administration
P.O. Box 11788
Columbia, SC 29211

Dear Mr. Rosen:

You have requested an Opinion from this Office as to whether Rule 14 of the Rules of Practice in the Supreme Court proscribes the acceptance by a Clerk of Court of real estate from a practicing attorney's mother. The question arises specifically in a situation where an attorney's mother has provided real estate to a bonding company in exchange for a monthly fee for the use of her land as collateral in the bonding business.

Rule 14 clearly prohibits the acceptance of a Clerk of Court of bail or surety bonds when a member of an attorney's immediate family "acts, indirectly or directly, as bail or surety." Furthermore, Rule 14 defines "immediate family," to include the mother of an attorney.

Under this language, a member of an attorney's immediate family may neither participate on a bond or surety. The use of such person's real estate as collateral by a bonding company constitutes an indirect act as bail or surety under the language of Rule 14 for, although the family member is not physically acting as surety, property in which he retains ownership is being used as collateral. It would be illogical to proscribe the use of real estate as collateral by the family member in the bonding business but remove the prohibitor when separate bonding company uses real estate in which the family member retains ownership. This is especially true in light of Rule 14's specification that such member can act neither "indirectly" nor "directly".

It is therefore the Opinion of this Office that a Clerk of Court cannot accept bail or surety from a bonding company which uses the real estate of a practicing attorney's mother as collateral.

Sincerely,

A. Camden Lewis
Sr. Assistant Attorney General

Reviewed & Approved:

Victor S. Evans
Dep. Atty. Gen.

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