

The Propriety of Firm Names Which Sound Like a Partnership

The Lawyer Disciplinary Board received an inquiry from an attorney about the propriety of his law practice's name. Formerly it was "Law Office of John Smith." The lawyer employs three other attorneys. He changed the name to "Law Offices of Smith & Jones" in recognition of the work of one of his long-time employees. The law practice is not a partnership; Jones does not share in the profits or liabilities. The lawyer now wants to add the name of another employee to the letterhead.

Rule 7.5(d) of the Rules of Professional Conduct states, "Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact." The comment to this subsection states,

[L]awyers sharing office facilities, who are not in fact partners, may not denominate themselves as, for example, "Black & White" for that title suggests partnership in the practice of law.

A law firm name is a form of public communication. Therefore, a name which is also misleading may violate the prohibition against false or misleading communication contained in Rule 7.1 of the Rules of Professional Conduct.

The Board opines that "Law Offices of Smith & Jones" like "Smith & Jones" suggests a partnership where one does not in fact exist and is therefore prohibited by Rule 7.5(d). This position is consistent with the Board's past informal advice to a legal corporation, disapproving its use of a trade name that sounded like

a partnership.

Lawyer Smith is not trying to give the appearance to the public that his firm is larger than it really is, as do lawyers who share office space but use a partnership-sounding name. However, the name is still misleading to the public. The law imposes certain responsibilities and liabilities upon partners in a partnership which may not apply to a sole proprietorship which employs attorneys. While partnership law may apply to apparent partnerships, a client suing the law firm should not be required to litigate the issue in the first place.

This opinion is in accord with Alabama State Bar opinion 91-04 (3/1/91) restricting the use of a non-partner name in a law firm name because the rules prohibit misleading designations. The opinion noted that prior ethics opinions have disapproved of misleading the public as to the identity, status and responsibility of lawyers within a firm.

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