

USE OF A TRADE NAME FOR ADVERTISING PURPOSES

The Lawyer Disciplinary Board considered the following question:

May a law firm use a trade name for advertising purposes only when it actually conducts business under a different name containing the names of the partners of the firm.

Rules 7.5(a) and (b) of the Rules of Professional Conduct provide:

Rule 7.5. Firm Names and Letterheads.

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

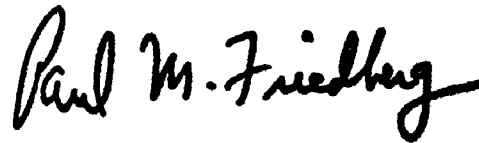
It is implicit in Rule 7.5(b) that when a law firm practices in more than one jurisdiction that the use of more than one name may be permitted. The question then becomes whether Rule 7.1(a) is violated by the use of both a trade name and a firm name within the single jurisdiction of the State of West Virginia.

Rule 7.1 of the Rules of Professional Conduct precludes the use of misleading communications with regard to a lawyer's services. Rule 7.2 of the Rules of Professional Conduct make clear that a lawyer may advertise subject to the requirements of Rule 7.1. A misleading communication is defined as one which contains material misrepresentations of fact or omissions of fact necessary to make the statement as a whole not materially misleading.

The Board is of the opinion that it is misleading to advertise under a trade name which, in effect, conceals the identity of the law firm because potential clients do not know what firm they are contacting in response to the advertisement and other clients of the firm do not understand or realize that the law firm they have retained is soliciting certain types of cases under a trade name.

Therefore, the Lawyer Disciplinary Board finds that it is mandatory that each and every law office designate all firm or trade names which it uses in all communications, particularly in all advertising. The failure to note all trade names and firm names under which the law office operates is a material omission of fact necessary to make a statement as a whole not materially misleading and therefore constitutes a violation of Rule 7.1(a) of the Rules of Professional Conduct.

APPROVED this 17th day of October, 1997.



Paul M. Friedberg, Chairperson
Lawyer Disciplinary Board
State of West Virginia