

OPINION 529

May 1999

Question

May a lawyer practice law under a trade name that includes words in addition to the name of one or more lawyers who practice with (or previously practice with) the firm? For example, may a lawyer practice under firm names such as "The Legal Clinic of John Doe," "Jane Doe Trial Lawyers," "Discount Legal Services of Jones and Doe," and "Doe and Jones Lawmart"?

Discussion

Rule 7.01 (a) sets forth the basic rule with respect to the name under which a lawyer may practice (all references to "Rules" in this opinion are to the Texas Disciplinary Rules of Professional Conduct):

- a. A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional association, limited liability company may contain "P.C.," "P.A.," "L.L.P.," "P.L.L.C.," or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.

Rule 7.01 (f) requires that "A lawyer shall not use a firm name, letterhead, or other Rule 7.01(a)." Rule 7.02(a) provides in part that "A lawyer shall not make a false or misleading communication about the qualifications or the services of any lawyer or firm. ..."

Comments 1 and 4 to Rule 7.01 set forth the following explanations for the Rules limiting the names under which lawyers may practice:

1. A lawyer or law firm may not practice law using a name that is misleading as to identity of the lawyers practicing under such name, but the continued use of the name of a deceased or retired member of the firm or of a predecessor firm is not considered inherently misleading. Trade names are generally considered inherently misleading.

...

1. With certain limited exceptions, paragraph (a) forbids a lawyer from using a trade name or fictitious name In a largely overlapping measure, paragraph (f) forbids the use of any such name or designation if it would amount to a "false or misleading communication" under Rule 7.02(a).

The Rules quoted above allow a lawyer to practice under a firm name that contains names of one or more lawyers who practice, or have practiced, with the law firm together with words or symbols to indicate the nature of the organization or the fact that the firm provides

legal services (rather than some other service or product). Thus, for a law firm composed of Ms. Jones, Mr. Smith, and Ms. Doe, permissible firm name would include "Jones, Smith & Doe," "Jones, Smith & Doe, P.C.," and "Law Offices of Jones, Smith & Doe."

However, in the opinion of the committee, a law firm name that claims or implies any quality for the firm beyond the fact that the firm renders legal services is a trade name in violation of Rule 7.01(a). Such a name is also prohibited by Rule 7.01(f) and 7.02(a) as misleading communication because words in a trade name claiming or implying qualities of a firm's legal services necessarily would be incomplete and would not be subject to verification on an ongoing basis. Thus, law firm names such as "The Legal Clinic of John Doe," "Jane Doe Trial Lawyers," "Discount Legal Services of Jones and Doe," and "Doe and Jones Lawmart" are trade names prohibited by the Texas Disciplinary Rules of professional Conduct.

Professional Ethics Committee Opinion 398 (Texas Bar Journal, July 1979,p. 610), which addressed related question under the Texas Code of Professional Responsibility (effective until Jan. 1, 1990), is superseded by the opinion.

Conclusion

Under the Texas Disciplinary Rules of Professional Conduct, a lawyer may not practice law under a trade name

that includes, in addition to permitted names of lawyers, words that claim or imply qualities for the law firm beyond the fact that the firm provides legal services. Professional Ethics Committee Opinion 398 is superseded.