NEW YORK STATE BAR ASSOCIATION
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Committee on Professional Ethics

Opinion #542 - 5/10/82 (9-82)

Topic: Foreign law firm; local office.

Digest: British law firm may establish office in this state where office is to be managed by solicitor admitted to practice in New York.

Code: Canon 3;
EC 3-9;
DR 2-102(D), 3-103(A).

QUESTION

A British firm of solicitors proposes to ask one of its members to apply for admission to the Bar of this State. Upon admission, the lawyer would establish an office in New York under the name of the British firm, which office he would proceed to manage as the firm's resident partner. Under the circumstances stated, is the proposed arrangement permissible?

OPINION

We assume, without intending to decide, that the proposed arrangement is in conformity with the substantive law of New York; and, accordingly, the only issues which we now resolve concern matters of legal ethics. Cf. Judiciary Law §478.

While the term "lawyer" is not defined by the Code of Professional Responsibility, it nonetheless clearly prohibits forming a partnership for the practice of law with a "non-lawyer." DR 3-103(A). If "non-lawyer" were taken to mean any person not qualified to practice law in the State of New York, albeit consistent with the general purpose of Canon 3 to prevent the "unauthorized practice of law," then multi-state firms would not be possible. Yet, we recognize that by attempting to regulate multi-state firms, the present Code impliedly approves partnerships "between or among lawyers licensed in different jursdictions." DR 2-102(D). Since such firms were permitted long before our present Code came into being and at a time when the Former Canons of Professional Ethics contained a similar proscription (Former Canon 33), we must conclude that the term "non-lawyer" as used in DR 3-103(A) means something more than not being admitted to practice in this State. Clearly, one admitted to practice in any jurisdiction of the United States cannot be considered a "non-lawyer" within the meaning of DR 3-103(A). See, e.g., N.Y. State 175 (1970) and N.Y. State 144 (1970).

OVER--

Although far less common than partnerships among lawyers admitted to the Bar of two or more states, members of the Bar of New York have for some time entered into partnerships with solicitors admitted to practice only in the United Kingdom. Many solicitors have thus become partners of New York firms. The general similarity of our educational requirements for admission to practice, as well as the essential compatibility of our standards of professional conduct and discipline, have inevitably led us to consider such persons beyond the traditional proscription against lay partnerships.

If an American firm can contain British partners practicing in the United Kingdom, we can perceive no reason why the ethics of our profession should serve to prevent a British firm, containing American partners practicing in the United States, from establishing an office in this state.

With respect to the use of the British firm's name and letterhead, we believe that the same standards which apply to American firms with multi-state operations should obtain. See N.Y. State 434 (1976) and the ethics opinions cited therein; cf. EC 3-9.

For the reasons stated, the question posed is answered in the affirmative.
