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Opinion #546 - 9/23/82 (29-82)

Topic: Letterhead; branch office.

Digest: Law firm may list branch office on letterhead without appropriate disclaimer only if it provides for rendition of certain minimum services thereat.

Code: DR 2-101(A) and (D),
2-102(A) (4).

QUESTION

A law firm intends to lease a small office in a distant community where it has a number of clients. The firm will send a lawyer and some supporting personnel to the new office for several days each month. Under the circumstances, may the new office be listed on the firm's letterhead?

OPINION

The subject of a lawyer's stationery is specifically addressed by DR 2-102(A) (4), which provision incorporates by implication the standards applicable to all forms of advertising and publicity stated in DR 2-101. In general, any "information relevant to the selection of the most appropriate counsel" (DR 2-101[D]) that is not "false, deceptive [or] misleading" (DR 2-101[A]) may be used.

Applying the Code's requirement that a lawyer's stationery be free from deception, the key issue to be resolved on the question posed is whether or to what extent the firm should be required to make known any limitation on the branch office's hours of operation, where the office is regularly open less than every business day.

Clearly, it would be inappropriate to list a "mail drop" as a branch office in the absence of a notice fully describing its limited status. See, e.g., N.Y. City 80-55 (1980) (listing of an office on firm's letterhead constitutes a representation that services will be furnished at the office's address "in a substantial way"). Listing a mail drop as an office without some appropriate explanation, in our opinion, would be "deceptive" and "misleading" within the meaning of DR 2-101(A).

The office in question is not, however, simply a mail drop. It will be staffed for at least several days each month, and

during those periods that staff will presumably be capable of rendering substantial legal services. Nevertheless, we believe that a law firm listing an office on its letterhead must do more than staff that office from time to time unless that limitation on staffing is made clear. There is, we believe, an implied representation from such listing that the firm has made arrangements to respond in a timely fashion to all inquiries addressed to that office, to provide legal services from that office as the need may arise, and hold meetings there. If the firm has not made such arrangements, it cannot list its branch office without some appropriate disclaimer indicating the limited hours of its operation.

For the reasons stated, subject to the qualifications hereinabove set forth, the question posed is answered in the affirmative.
