

NEW YORK STATE BAR ASSOCIATION

Committee on Professional Ethics

Opinion 704 (46-97)

Topic: Multi-state law firm; letterhead and business cards

Digest: Letterhead and business cards of multi-state law firm and affiliated lawyers must fairly disclose jurisdictional limitations on practice of named individual attorneys

Code: DR 1-102, DR 1-104,
DR 2-101(A), DR 2-101 (D),
DR 2-102 (A), DR 2-102 (D)

QUESTIONS

A law firm based in another state plans to establish an office in New York City. The New York City office will be staffed full-time by a group of attorneys, at least one of whom will be a partner and all of whom are admitted to practice law in the State of New York. We have been asked the following questions concerning the proper content of letterhead and business cards for the New York City office:

1. May a law firm practicing in New York use a general letterhead that contains only the firm name, but not the names of individual attorneys?

2. Must the name of the "supervising" or "resident" partner for the New York office appear on the firm's letterhead?

3. May personal letterhead be used for each attorney showing, in addition to the firm name, the individual attorney's name, phone number, direct telecopy number or e-mail address? Must the attorney's relationship with the firm be indicated (*e.g.*, associate, of counsel or partner) on such letterhead or the attorney's business cards?

4. For attorneys not admitted to practice in New York, but whose name may appear on firm letterhead (personal or otherwise), can this limitation be expressed by indicating "Not Admitted in New York" or must the phrase "Admitted Only In ____" be used?

5. Can the firm's letterhead include the firm's Internet web site address?
6. If attorneys not admitted to practice law in New York are given business cards from the New York office, must this practice limitation be shown on their business cards?

OPINION

The touchstones for our responses to each of the questions discussed below are the requirements of DR 2-101 that a lawyer refrain from engaging in any public communication that contains statements or claims that are false, deceptive or misleading, DR 2-101 (A), and that lawyer "advertising and publicity shall be designed to educate the public to an awareness of legal needs and to provide information relevant to the selection of the most appropriate counsel." DR 2-101 (D). See N.Y. State 500 (1978). These rules as well as others cited in this opinion apply with the same force to the law firm as to its individual attorneys. DR 1-102, 1-104.

Letterhead and, by a short extension, business cards -- the use of both of which is expressly permitted by DR 2-102 (A) -- are a form of public communication and as such are subject to the requirements of DR 2-101. DR 2-102 (A); N.Y. State 557 (1984). As a result, the contents of letterhead and business cards should enhance the public's ability to recognize the need for counsel and to choose the most appropriate counsel, and should not contain any statement or representation that is false, deceptive or misleading. In addition, their contents should not violate any statute or court rule. DR 2-102 (A). While paragraphs 1 and 4 of DR 2-102 (A) set forth information that may be included on business cards and letterhead, respectively, we do not interpret those enumerations as limiting (except as expressly stated therein) but rather as suggestive of the type of information that may but need not in all cases be included.

Letterhead

1. *May a law firm practicing in New York use a general letterhead that contains only the firm name, but not the names of individual attorneys?*

While DR 2-102 (A)(4) states literally that "a letterhead identifying the lawyer by name and as a lawyer" is permissible, we believe that provision to be enabling and not limiting. Accordingly, we believe that it is sufficient on a firm letterhead to print only the firm's name, and to omit from the preprinted material the name(s) of individual lawyer(s). See *New York Criminal and Civil Courts Bar Ass'n v. Jacoby*, 61 N.Y.2d 130 (1984). To avoid misleading appearances, however, any non-lawyer employee of the firm who uses the letterhead should identify himself or herself by some suitable title or legend that will obviate the inference that he or she is a lawyer. For the same reason, a lawyer not admitted in New York who uses the letterhead should state the applicable jurisdictional limitations, as discussed below. DR 2-102 (D).

2. *Must the name of the "supervising" or "resident" partner of the New York*

office appear on the firm's letterhead?

We have found no requirement in the Code of Professional Responsibility or in any interpretive opinion that the name of the supervising or resident partner or, indeed, that the name of any attorney appear on the firm letterhead.

3. May personal letterhead be used for each attorney showing, in addition to the firm name, the individual attorney's name, phone number, direct telecopy number or e-mail address? If so, must the attorney's relationship with the firm be indicated (e.g., associate, of counsel or partner)?

We believe that personal letterhead identifying the firm and an individual attorney and providing any information concerning the attorney that may assist the reader, that is not false, deceptive or misleading and does not violate any statute or court rule is ethically permissible. We have not found any rule or ethical authority that suggests that the nature of the precise status of an attorney in the law firm must be indicated on the letterhead. Disclosure of jurisdictional limitations on the attorney's practice may be required, as discussed below.

4. For attorneys not admitted to practice in New York, but whose name may appear on firm letterhead (personal or otherwise), can this limitation be expressed by indicating "Not Admitted in New York" or must the phrase "Admitted Only In ____" be used?

The requirement that any jurisdictional limitations on the ability of an attorney affiliated with a multi-jurisdiction firm be stated on the letterhead appears in DR 2-102 (D). That provision of the Code does not state expressly, however, how such limitations shall be expressed. N.Y. State 434 (1976) offers both of the formulations set forth in the inquiry, without explaining whether either is appropriate in all circumstances. Returning to one of the first principles in this area – that information not be false, deceptive or misleading – however, the Committee believes that if only a New York address is given, then the name of a lawyer not admitted in New York should not appear without stating the jurisdiction(s) in which that lawyer is admitted. If both the firm's New York address and an address in another jurisdiction are shown, then for any lawyer admitted in the other jurisdiction but not admitted in New York, it would be sufficient to say "not admitted in New York;" if addresses in three or more jurisdictions are shown on the letterhead, then for any lawyer whose name is shown and who is not admitted in New York, a legend should appear "admitted only in" with the jurisdictions in which that lawyer has been admitted indicated, unless the lawyer has been admitted in each of the jurisdictions shown other than New York, in which case, again, it would be sufficient to say "not admitted in New York." The governing principle is that the principal office address on the letterhead implies that each attorney whose name is shown on the letterhead has been admitted to practice in the jurisdiction in which that address is located. If the implication is untrue, then it should be clarified with language sufficient to the task in order to avoid misleading the reader. In accomplishing that, however, an implication may arise that the lawyer is admitted in the other jurisdictions shown on the letterhead. Where and to the extent that implication is untrue, it must also be clarified.

5. *Can the firm's letterhead include the firm's Internet web site address?*

Again, if the information on the letterhead otherwise complies with statute, applicable court regulation and other relevant provisions of the Code, we see no reason why a law firm or lawyer should not be able to state its web site address on its letterhead. We also note that the web site itself is a public communication that must conform to the requirements of the Code.

Business Cards

6. *If attorneys not admitted to practice law in New York are given business cards from the New York office, must their practice limitation be shown on their business cards?*

For the same reasons stated above with respect to letterheads, we believe that the jurisdictional limitation(s) on the practice of a lawyer whose business card carries an address in New York but who is not admitted in New York should be disclosed on the business card. DR 2-102(D). We do not in this Opinion address the circumstances in which a lawyer not admitted to practice in New York could appropriately use such a business card under New York's statute governing the unauthorized practice of law, as questions of law are outside our Committee's jurisdiction.

7. *Is it necessary on business cards to indicate the attorney's relationship with the firm (i.e., associate, of counsel or partner), or is the designation "Attorney at Law" acceptable?*

Since DR 2-102 (A)(1)'s description of the permissible contents of a business card makes no mention of the nature of the attorney's relationship to his or her firm, we believe that the relationship may, but need not, be indicated on an attorney's business card.

CONCLUSION

Law firm letterhead need not include the names of the firm's attorneys, including any supervising partner. Letterhead or business cards identifying an attorney and firm need not disclose the attorney's status with the firm, but must make clear the jurisdiction(s) in which the lawyer can practice, as provided in this Opinion. Letterhead may include the firm's web site address.
