



New York State Bar Association Committee on Professional Ethics

Opinion 932 (9/7/12)

Topic: Lawyers' business cards; recommendation of services.

Digest: A lawyer's photograph may be on the lawyer's business card. A lawyer may recommend other service providers provided that there is an appropriate disclaimer.

Rules: 7.5(a)(i); 5.4; 7.2; 7.1(c) (3)).

QUESTION

[1] We have been asked if an attorney's business card may include a photograph of the attorney and whether the attorney may include on the back of the card, or on a separate sheet of paper, lists of other service providers such as a plumber, realtor, mortgage loan officer, or accountant, which may be useful to the attorney's clients during a real estate transaction and which are recommended by the attorney based on past personal experience with the provider.

OPINION

[2] Rule 7.5(a)(i) provides a non-exclusive list of the content of a lawyer's professional or business card. It provides that the card may contain the following:

- The lawyer's name
- Identification that the person is a lawyer such as "J.D.," "Esq.," "Attorney-at-law" or "lawyer"
- Address or addresses
- Telephone Numbers
- The name of the lawyer's firm
- Any information permitted under Rule 7.4 relating to area of practice
- Name of members and associates of the firm.

[3] Nothing contained in the Rules prohibits the use of a photograph or "headshot" of a lawyer. However, a lawyer may not use an actor to portray a lawyer in the photograph without disclosing that fact. (Rule 7.1(c) (3)). A lawyer may not include anything in the business card which would be false, misleading or deceptive. Rules 7.5(a) and 7.1(a).

[4] The rules clearly contemplate that lawyers may refer their clients to other service providers and that others may refer clients to lawyers. *See, e.g.*, Rules 5.4 and 7.2. The lawyer must be mindful that referrals are managed in such a way that the lawyer must always maintain

professional independence in order that the client always receives the lawyer's best professional judgment free of any undue or inappropriate influence. Thus, exclusive reciprocal referral

arrangements are prohibited. *See* Rule 7.2, Cmt. [4]. Furthermore, the lawyer must not have such an interest in a steady stream of referrals that it undermines the lawyer's professional judgment for the client. Rule 7.2, Cmt. [4] and N.Y. State 765 (2003). Nonexclusive agreements are permissible provided that the client is informed of the agreement. To this end, the list of referrals, whether on the back of a business card or separate, should contain a disclaimer making it clear that the lawyer does not have an agreement with those on the list. While many formulations are possible, the following would be sufficient: *"Note: These professionals are not affiliated with the Law Offices of _____ and may not be appropriate choices in every matter."*

[5] We do not opine on the constitutionality of the advertising rules.

CONCLUSION

[6] A lawyer's photograph may be on the lawyer's business card. A lawyer may recommend other service providers provided that there is an appropriate disclaimer.

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