



NEW YORK STATE BAR ASSOCIATION Committee on Professional Ethics

Opinion 1180 (01/17/2020)

Topic: Professional letterheads and emails

Digest: An attorney may communicate with third parties on a client's behalf using a client's email address with a signature line that includes the client's logo and a title indicating that the inquirer is "Corporate Counsel and Chief Compliance Officer" for the client, provided that the client devotes a substantial amount of professional time to the client's representation and provided that such position and title representations are truthful.

Rules: 7.1(a); 7.5(a)(4)

FACTS

1. The inquirer, a solo practitioner, serves as outside counsel to a client company. The inquirer devotes a substantial amount of professional time to the client's affairs. The client has requested, when communicating on the client's behalf to third parties, that the inquirer use a client email address with a signature line that includes the client's logo and a title indicating that the inquirer is "Corporate Counsel and Chief Compliance Officer" for the client, a statement that, we are told, is factually correct.

QUESTION

2. May an attorney communicate with third parties on a client's behalf using a client's email address with the client's logo including a signature line indicating the attorney's title and position with the client?

OPINION

3. Rule 7.5(a) of the New York Rules of Professional Conduct ("Rules") authorizes attorneys to use "the internet, web sites, professional announcement cards, office signs, letterhead or similar professional devices" provided two conditions are satisfied:

- a. Rule 7.5(a) requires that such communications not violate any statute or court rule and must be in accordance with Rule 7.1, which prohibits the use of statements that are false, deceptive or misleading (¶ (a)(1)) or which violate a Rule (¶ (a)(2)); and
 - b. Such communications must conform to certain specific restrictions that circumscribe the information that may be provided in professional cards (¶ 7.5(a)(1), notices (¶7.5 (a)(2), signs (¶ 7.5(a)(3) and letterhead (¶ 7.5(a)(4).
4. Rule 7.5 (a)(4) also imposes an additional condition with respect to the use of "General Counsel" or "similar professional reference" on client stationery:

A lawyer or law firm may be designated as “General Counsel” or by similar professional reference on stationery of a client if the lawyer or the firm devotes a substantial amount of professional time in the representation of the client.

5. Here, it is ethically permissible for the inquirer, when communicating on behalf of the client, to use the client email’s address, as proposed, because the attorney does in fact devote a substantial amount of professional time in the representation of the client, and does in fact serve the client in the signified positions.

6. Our analysis warrants two additional comments. First, we see no functional difference between the application of the safe harbor of Rule 7.5(a)(4) on an attorney’s use of client letterhead to an attorney’s use of a company email address and template that includes the company logo. Second, although we recognize the possibility that an attorney’s communication on such a template with a signature block indicating that the attorney is the client’s “Corporate Counsel and Chief Compliance Officer” might lead a third-party recipient to assume that the attorney is a payroll employee of the client, and not outside counsel, that does not, in our opinion, raise any concerns regarding false, deceptive or misleading statements under Rule 7.1. Whether an attorney serves as in-house counsel or outside counsel, the fiduciary obligation of the lawyer to the client and the Rules of Professional Conduct that govern that relationship are the same. Therefore, any misimpression formed would be irrelevant, having no more significance than if a third party, for example, mistook a lawyer’s gender based on unfamiliarity with a foreign name.

CONCLUSION

7. An attorney may communicate with third parties on a client’s behalf using a client’s email address with a signature line that includes the client’s logo and a title indicating that the attorney is “Corporate Counsel and Chief Compliance Officer” for the client, provided that the client devotes a substantial amount of professional time to the client’s representation and provided that such position and title representations are truthful.

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