

FORMAL OPINION NO 2005-12

[REVISED 2015]

Firm Names: Office Sharing with Separate Practices

Facts:

Lawyers *A*, *B*, and *C* share office space. Beyond this, however, *A*, *B*, and *C* all maintain separate practices.

Question:

May Lawyers *A*, *B*, and *C* hold themselves out, whether through the use of a common letterhead or otherwise, as “associates,” as “of counsel” with each other, or as lawyers practicing under the name “*A*, *B* & *C*, Lawyers”?

Conclusion:

No.

Discussion:

Oregon RPC 7.5(a) provides:

A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

Oregon RPC 7.5(d) provides, “[l]awyers may state or imply that they practice in a partnership or other organization only when that is a fact.” Similarly, Oregon RPC 7.1 provides:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

Use of the term *associates* or *of counsel* by lawyers who are not truly associated or of counsel with each other in private practice, but who merely share office space and other services, is misleading within the meaning of these rules because it “impl[ies] that they practice in a partnership or other organization” when in fact they do not. Oregon RPC 7.5(d); *Cf. In re Sussman and Tanner*, 241 Or 246, 405 P2d 355 (1965). Similarly, use of the name “A, B & C, Lawyers” is misleading if no law firm exists in which all three lawyers are a part because that is what the name suggests. *Cf. In re Bach*, 273 Or 24, 29, 539 P2d 1075 (1975).

Approved by Board of Governors, February 2015.

COMMENT: For additional information on this general topic and other related subjects, see *The Ethical Oregon Lawyer* § 2.5-2 (firm names and relationships), § 13.3-1(d) (office sharing) (OSB Legal Pubs 2015); and OSB Formal Ethics Op No 2005-50 (rev 2014) (when lawyers who share office space may represent adverse parties); OSB Formal Ethics Op No 2005-65 (rev 2015) (permits listing nonlawyer employees on lawyer’s letterhead, with designation of positions held, as long as practice is neither false nor misleading); OSB Formal Ethics Op No 2005-109 (rev 2015) (associated firms may identify themselves as “Associated Offices” when their relationship is ongoing). See also Barbara Fishleder, *Office Sharing: Can You Comply with the Code of Professional Responsibility and Still Get Sued for Legal Malpractice*, 52 OSB Bulletin 23 (June 1992).