

FORMAL OPINION NO 2005-109

[REVISED 2015]

Letterhead Listing an Out-of-State Law Firm as “Associated Office”

Facts:

Oregon Law Firm contracts with Washington Law Firm to represent Washington Law Firm’s clients in state and federal litigation in Oregon when permissible. Oregon Law Firm would like to print stationery with its name and address at the top, and with the following at the bottom:

“ASSOCIATED OFFICE: Washington Law Firm, [address and telephone number]”

Similarly, Washington Law Firm would like to put Oregon Law Firm’s name, address, and telephone number at the bottom of its stationery as “Associated Office.”

Questions:

1. May Oregon Law Firm use stationery with Washington Law Firm listed as “Associated Office”?
2. May Oregon Law Firm permit Washington Law Firm to list it as “Associated Office”?

Conclusions:

1. Yes.
2. Yes.

Discussion:

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.

Oregon RPC 7.5(a) and (b) provide:

(a) 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.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

ABA Formal Ethics Op No 84-351 provides further guidance:

The basic requirement regarding lawyer advertising . . . is that communications by a lawyer concerning legal services must not be false or misleading. [Citation omitted.] Thus, designation by a lawyer or law firm of another law firm on a letterhead or in any other communication, including any private communication with a client or other person, as “affiliated” or “associated” with the lawyer or law firm must be consistent with the actual relationship. Communication that another law firm is “affiliated” or “associated” is not misleading if the relationship comports with the plain meaning which persons receiving the communication would normally ascribe to those words or is used only with other information necessary adequately to describe the relationship and avoid confusion. An “affiliated” or “associated” law firm would normally mean a firm that is closely associated or connected with the other lawyer or firm in an ongoing and regular relationship. [Footnote omitted.]

. . . .

The type of relationship that is implied by designating another firm as “affiliated” or “associated” is analogous to the ongoing relationship that is required . . . when using the designation “Of Counsel.” . . . The relationship must be close and regular, continuing and semi-permanent, and not merely that of forwarder-receiver of legal business. The “affiliated” or “associated” firm must be available to the other firm and its clients for consultation and advice.

In this case, the “Associated Office” designation is not false or misleading and therefore complies with Oregon RPC 7.1 and Oregon RPC 7.5.¹

Because the comparable Washington rules, *see* Washington RPC 7.5, are to the same effect as the Oregon rules, we need not consider the problems that would be raised if Oregon Law Firm were engaged in a practice that caused Washington Law Firm to violate the Washington ethics rules.

Approved by Board of Governors, September 2015.

¹ If, however, the letterhead were to list the individual lawyers “associated” in addition to or in lieu of the firm names, the jurisdiction in which each lawyer is licensed to practice would have to be shown in order for the letterhead not to be misleading. *Cf.* Oregon RPC 7.5(b); Oregon RPC 8.4(a)(3) (prohibiting “conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer’s fitness to practice law”).

COMMENT: For additional information on this general topic and other related subjects, *see The Ethical Oregon Lawyer* § 2.5-3 to § 2.5-5 (firm names and letterhead) (OSB Legal Pubs 2015); ABA Model RPC 7.1; ABA Model RPC 7.5; and ABA Model RPC 8.4(c). *See also* Washington Advisory Op No 1015 (1986) (available at <www.wsba.org/resources-and-services/ethics/advisory-opinions>).

