

FORMAL OPINION NO 2005-31

[REVISED 2015]

Information about Legal Services: Improper Use of Titles

Facts:

Lawyer *A* is a part-time judge. Lawyer *B* is a member of the state legislature.

Questions:

1. Is it ethical for Lawyer *A*'s office receptionist to answer the telephone at Lawyer *A*'s legal office by stating "Judge _____'s office"?
2. Is it ethical for Lawyer *B*'s office receptionist to answer the telephone at Lawyer *B*'s legal office by stating "Senator _____'s office"?

Conclusions:

1. No.
2. No.

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.

Similarly, Oregon RPC 8.4(a)(5) makes it professional misconduct for a lawyer to "state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate these Rules or other law."

Although the name of a lawyer holding public office may be used as part of a law firm's name during the period in which the lawyer is

actively and regularly practicing at the law firm, *cf.* Oregon RPC 7.5(c)¹, answering the public reception telephone at a private law office by referring to a lawyer’s judicial or legislative position would violate both Oregon RPC 7.1 and Oregon RPC 8.4(a)(5). *Cf.* OSB Formal Ethics Op No 2005-7 (rev 2014).²

Approved by Board of Governors, April 2015.

¹ Oregon RPC 7.5(c) provides:

The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

² As a part-time judge, Lawyer A’s conduct may also be governed by the Oregon Code of Judicial Conduct. Lawyer A should be careful to not misuse the prestige of judicial office by attempting to gain personal advantage at a private law practice. *See* Oregon Code of Judicial Conduct Rule 2.2.

COMMENT: For more information on this general topic and other related subjects, see *The Ethical Oregon Lawyer* § 2.4-1(b) (implication of ability to improperly influence government agency or official), § 15.2-3 (application of Oregon Rules of Professional Conduct to judges) (OSB Legal Pubs 2015); and ABA Model RPC 7.1. *Cf.* OSB Formal Ethics Op No 2005-169 (rev 2016) (law firm may continue to use in firm’s name the name of former partner who has retired from active practice of law, but continues to practice as mediator, if use of lawyer’s name is not misleading); OSB Formal Ethics Op No 2005-109 (rev 2015) (Oregon law firm that contracts with Washington law firm to represent Washington law firm’s clients in Oregon, whenever clients consent and RPCs permit, may identify Washington law firm on its letterhead as “associated office” and may permit itself to be advertised on Washington law firm’s letterhead as associated office); OSB Formal Ethics Op No 2005-12 (rev 2015) (Lawyers A, B, and C, who maintain separate practices but share office space, may not hold themselves out as “associates” or “of counsel” and may not practice under name “A, B & C, Lawyers”).