

FORMAL OPINION NO. 2005-109
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(a) provides, in pertinent part:

(a) A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer’s firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication:

- (1) contains a material misrepresentation of fact or law, or omits a statement of fact or law necessary to make the communication considered as a whole not materially misleading;
- (2) is intended or is reasonably likely to create a false or misleading expectation about results the lawyer or the lawyer’s firm can achieve;

. . .

(7) states or implies that one or more persons depicted in the communication are lawyers who practice with the lawyer or the lawyer's firm if they are not;

. . .

(11) is false or misleading in any manner not otherwise described above; or

(12) violates any other Rule of Professional Conduct or any statute or regulation applicable to solicitation, publicity or advertising by lawyers.

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

(a) A lawyer may use professional announcement cards, office signs, letterheads, telephone and electronic directory listings, legal directory listings or other professional notices so long as the information contained therein complies with Rule 7.1 and other applicable Rules.

(b) A lawyer may be designated "Of Counsel" on a letterhead if the lawyer has a continuing professional relationship with a lawyer or law firm, other than as a partner or associate. A lawyer may be designated as "General Counsel" or by a similar professional reference on stationery of a client if the lawyer or the lawyer's firm devotes a substantial amount of professional time in the representation of the client.

ABA Formal Ethics Op No 84-351 (1984) 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 7.5.¹

Because the comparable Washington rules, Washington RPC 7.1 et seq., are to the same effect as the Oregon rule, 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, August 2005.

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 8.4(a)(3) (prohibiting “conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer’s fitness to practice law”); Oregon RPC 7.5(f) (requiring that jurisdictional limitations be shown when multistate law firm letterheads list individual lawyers).

COMMENT: For additional information on this general topic and other related subjects, see THE ETHICAL OREGON LAWYER §§2.18–2.22 (Oregon CLE 2003); and ABA Model Rules 7.1, 7.5, 8.4(c). *See also* Washington Informal Ethics Op No 1015 (unpublished).