

FORMAL OPINION NO. 2005-12

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 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 disciplinary rules.

Oregon RPC 7.5(c)(1) provides, in pertinent part, that a lawyer in private practice

shall not practice under a name that is misleading as to the identity of the lawyer or lawyers practicing under such name or under a name that contains names other than those of lawyers in the firm.

Similarly, Oregon RPC 7.1(a) provides, in pertinent part:

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.

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. *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, 539 P2d 1075 (1975).

Approved by Board of Governors, August 2005.

COMMENT: For additional information on this general topic and other related subjects, see THE ETHICAL OREGON LAWYER §§2.19, 12.19 (Oregon CLE 2003); and OSB Formal Ethics Op Nos 2005-50 (when lawyers who share office space may represent adverse parties), 2005-65 (permits listing nonlawyer employees on lawyer’s letterhead, with designation of positions held, as long as practice is neither false nor misleading), 2005-109 (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).