

DIGEST OF ETHICS ADVISORY PANEL
OPINION #90-20, REQUEST #99
Issued May 31, 1990

An attorney seeks Panel advice as to whether he may properly enter a professional relationship under the circumstances he describes.

The attorney advises the Panel that he is a member of the Rhode Island bar. Smith and Jones, a partnership of attorneys practicing outside the state of Rhode Island would like to serve clients within Rhode Island. No partners or associates of Smith and Jones are members of the Rhode Island bar. Smith and Jones would like to continue using its firm name in Rhode Island; the attorney's name would be listed on the stationery as "Of Counsel." The jurisdictional limitations of each member of the firm would be noted on the stationery. The attorney asks whether this arrangement is proper under the Rules of Professional Conduct.

The term "Of Counsel," formerly defined in Dr 2-102(A)(4), is not defined in the Rules of Professional Conduct. DR 2-101(A)(4) provided that the designation "Of Counsel" indicated that the lawyer had "a continuing relationship with a lawyer or law firm other than as partner or associate." The Panel takes the position that it would not be proper for the attorney to staff a Rhode Island Office of Smith and Jones if his relationship is, in fact, less than that of partner or associate.

Rule 7.5(b) provides:

A law firm with offices in more than one jurisdiction may use the same name 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.

For purposes of answering the questions the attorney has raised, if the attorney's affiliation with Smith and Jones were that of an associate or partner rather than "Of Counsel" then all other ethical requirements would be met and the arrangement described would be proper.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.