

ETHICS ADVISORY PANEL
OPINION #94-12 REQUEST #465
Issued March 23, 1994

The inquiring attorney shares office space and expenses with four (4) attorneys while maintaining "separate practices." The attorneys seeks to formalize the title of their practices by using the attorneys' last names. They also propose using the same stationery with the phrase "An Association of Independent Attorneys." The attorneys would continue to maintain their own client accounts and malpractice insurance. The inquiring attorney asks whether the attorneys' proposed conduct is permissible under the Rules of Professional Conduct.

Rules 7.1 and 7.5 set forth restrictions on information about legal services. Rule 7.1 provides that "[a] lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services." Rules 7.5(a) provides that "[a] lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1." Rule 7.5(d) states that "[l]awyers may state or imply that they practice in a partnership or organization only when that is the fact."

For the purposes of the Rules of Professional Conduct, lawyers may either be a law firm or share office space, however they may not be both. An office sharing arrangement consists of each lawyer maintaining his/her own letterhead, business cards, telephone number, telephone directory listing, pleading papers, separate files, bank accounts and other financial records. A lawyer cannot imply that there is a professional association where none exists. A lawyer who shares office space should be careful not to create an impression to the public that there is a partnership or any other professional relationship that does not exist.

Lawyers who share office space must also be mindful of the concern with client confidences pursuant to Rule 1.6, and the restrictions of the division of fees pursuant to Rule 1.5. In addition, lawyers sharing office space may be disqualified from representing clients with adverse interests as set forth in Rule 1.10 entitled "Imputed Disqualification."

With regard to the attorneys using their last names as the title of the practice, Rule 7.5 and the comments prohibit lawyers who share office facilities to denominate themselves as, for example, "Smith and Jones" because the title suggests a partnership to the public.

The Rhode Island Disciplinary Board's policy regarding the rules on office sharing states that disclaimers such as "not a partnership" or "association of independent attorneys" is not sufficient to inform the general public that the attorneys are not a law firm and therefore violate Rule 7.5(d). The phrase "An Association of Independent Attorneys" creates the appearance of a law firm and is therefore subject to Rule 1.10. If the attorneys use this language and they are not in fact a law firm, then Rule 7.5 will be violated.

This Panel opined in Opinion #93-66 (Issued September 14, 1993) that the phrase "an association of independent attorneys" when listed on an office sign post with the attorneys names listed vertically does not violate Rule 7.1 or 7.5. However, the Panel further stated that for the purposes of Rule 1.10, entitled "Imputed Disqualification" lawyers who use such a phrase will be regarded as a law firm. To the extent that the foregoing opinion is inconsistent with Opinion #93-66, the Panel believes that the foregoing opinion is correct.