

ETHICS ADVISORY PANEL
OPINION # 95-14, REQUEST # 573
Issued March 6, 1995

The inquiring attorney is a sole practitioner who is considering television advertising for his/her law practice. The inquiring attorney proposes to use a trade name in lieu of his/her name with regard to the advertisement while retaining his/her name on the letterhead, bank accounts and stationery. The inquiring attorney intends to hire other attorneys as independent contractors for legal research, writing and trial preparation as part of this law practice.

The inquiring attorney's concern is whether he/she may use a trade name for a limited purpose and whether the hiring of independent attorneys would create an appearance of a partnership in violation of Rule 7.5(d).

Rule 7.1 governs all communication regarding a lawyer's services, which includes advertising, firm names and letterhead. Rule 7.1(a) entitled "Communications Concerning a Lawyer's Services" states the following:

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:

(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading:

Equally applicable in this matter is Rule 7.5 entitled "Firm Names and Letterheads" which states in pertinent part:

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1 . . .

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

Rule 7.1 states that a lawyer shall not make false or misleading statements about the lawyer or the lawyer's services and the subsections define what constitutes false and misleading communications. Rule 7.5(a) prohibits an attorney from using any firm name or letterhead that conveys misleading information. The name of a law firm is public communication regarding that lawyers' services and is also governed by Rule 7.1.

The inquiring attorney's proposed trade name in lieu of his/her name for advertisement purposes only is misleading under Rule 7.1(a) because the name misleads the public regarding the identity of the lawyer. In addition, a trade name such as "XYZ Law Associates" implies a relationship which may be misleading as to identity, status and responsibilities of the lawyers involved in the office. The Panel opines that the proposed trade name for the limited purpose of television advertising is a misleading communication about the inquiring attorney and his/her law services.