

## **Final**

### **Rhode Island Supreme Court Ethics Advisory Panel Op. 2025-3 Issued March 13, 2025**

#### **FACTS**

The inquiring attorney is a member of a law firm specializing in eldercare law, estate planning, and real estate law. The firm wishes to print and distribute a publication (the “Publication”) advertising the firm’s services. Included in the Publication are advertisements for the firm’s non-lawyer business partner organizations that provide services related to those offered by the firm such as financial planning and wealth management, real estate sales, investments, mobility support, in-home care, and the like.

#### **ISSUE PRESENTED**

The inquiring attorney asks whether the firm’s inclusion of business partner organization advertisements in the Publication violates the Rules of Professional Conduct?

#### **OPINION**

It is the Panel’s opinion that the firm’s inclusion of business partner organization advertisements in the Publication does not violate the Rules of Professional Conduct.

#### **REASONING**

Attorney advertisements are regulated by Rules 7.1 through 7.5 of the Rules of Professional Conduct. Rule 7.2(a) expressly permits attorneys to “advertise services through written . . . communication . . . .” Such communications may contain:

[I]nformation concerning a lawyer’s name or firm name, address and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer’s fees are determined, including prices for specific services and payment and credit arrangements; a lawyer’s foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

Rule 7.2, Comment [2]. Written attorney communications may also “communicate the fact that the lawyer does or does not practice in particular fields of law.” Rule 7.4(a). However, at no point may such communications contain or convey “false or misleading [information] about the lawyer or the lawyer’s services.” Rule 7.1; see also Rule 7.3(b)(3) (prohibiting an attorney from disseminating a written communication to prospective clients if the communication “contains a false, fraudulent, misleading or deceptive statement or claim or is improper under Rule 7.1”). Information is false or misleading within the meaning of Rule 7.1 if it “contains a material

misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading . . . contains any testimonial about, or endorsement of, the lawyer without identifying the fact that it is a testimonial or endorsement . . . [or] contains a dramatization or simulated description of the lawyer, partners or associates, offices or facilities, or services without identifying the fact that the description is a simulation or dramatization.”

As an initial matter, the Panel “will not embark on the task of editing documents and will not therefore give approval to a document as a whole by way of an advisory opinion.” Rhode Island Supreme Court Ethics Advisory Panel Op. 98-16.; see also Rhode Island Supreme Court Ethics Advisory Panel Op. 90-15. Rather, the Panel will focus its analysis solely on whether including the business partner organization advertisements in the Publication comports with the Rules of Professional Conduct.

This analysis requires a two (2) step process. First, the Panel will examine the content of the advertisements. Second, the Panel will assess the propriety of including them in the Publication.

The Panel’s review of the business partner organization advertisements indicates that the content thereof does not contain any false or misleading information in violation of Rule 7.1. Significantly, the advertisements do not evince any language or imagery constituting a testimonial about or endorsement of the inquiring attorney’s firm or the services that may be obtained therefrom. See Rule 7.1, Comment [2] (observing that information may be misleading “if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer’s services for which there is no reasonable factual foundation”). Relatedly, none of the business partner organization advertisements indicate or suggest an ability to achieve a particular result or outcome for the reader. See Rule 7.1, Comment [4]; see also Rule 8.4(e).

The Panel further finds that the inclusion of business partner organization advertisements in the Publication comports with Rule 7.2(a). Comment [2] explicitly permits attorneys to communicate any “information that might invite the attention of those seeking legal assistance.” This category can be fairly interpreted to encompass information regarding the existence of optional service providers related to the attorney’s practice.<sup>1</sup> Concurrently, the advertisements are clearly differentiated, both stylistically and physically within the Publication, from information concerning the inquiring attorney’s law firm such as name, location, members, and practice areas, thereby ensuring there is no indication or suggestion of overlap between the law firm and the business partners. See Rule 7.3(b)(3).

For these reasons, the Panel concludes that the inclusion of business partner organization advertisements in the Publication does not run afoul of the Rules of Professional Conduct. In reaching this conclusion, the Panel reminds the inquiring attorney that he or she should subject all future business partner organization advertisements to the analysis articulated herein before including them in any attorney communication like the Publication.

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<sup>1</sup> In this way, the inclusion of the business partner organization advertisements also accords with Rule 7.4(a) allowing the inquiring attorney to identify his or her law firm’s specific areas of practice.