



Committee on Professional Ethics

Opinion #321 - 12/18/73 (54-73) Topic: Partnership name

Digest: Improper to use in firm name the name of a former partner who has become a full time public official

Code: EC 2-11; EC 2-12
DR 2-102(B)

QUESTION

May the name of a former member of a law firm who has taken a full time government position and by statute is prohibited from the practice of a profession be continued in the firm name?

OPINION

The name of a former member of a law firm who has assumed a full time government position may not be continued in the firm name of the former partnership. N.Y. State 233 (1972). DR 2-102(B) provides in part:

"A lawyer who assumes a judicial, legislative, or public executive or administrative post or office shall not permit his name to remain in the name of a law firm or to be used in professional notices of the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm, and during such period other members of the firm shall not use his name in the firm name or in professional notices of the firm."

On the other hand EC 2-12 is applicable where one assuming public office is permitted and does actively continue to practice law. It provides:

"A lawyer occupying a judicial, legislative, or public executive or administrative position who has the right to practice law concurrently may allow his name to remain in the name of the firm if he actively continues to practice law as a member thereof. Otherwise, his name should be removed from the firm name, and he should not be identified as a past or present member of the firm; and he should not hold himself out as being a practicing lawyer."

Accordingly, the determination turns on whether the official continues to actively and regularly practice law as a member of the firm. See also EC 2-11.
