



## Committee on Professional Ethics

Opinion #352 - 7/24/74 (22-74)

Topic: Firm letterhead; out-of-state partners

Digest: Address of office of out-of-state partner may be carried on letterhead under certain circumstances

Code: DR 2-102(A)(4), B, C and D

### QUESTION

May the letterhead of a law firm maintaining an office in New York, which includes an out-of-state partner, list the address of the office of the out-of-state partner?

### OPINION

DR 2-102(A) provides in pertinent part as follows:

"(A) A lawyer or law firm shall not use...letterheads... except that the following may be used if they are in dignified form:...

"(4) A letterhead of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, associates and any information permitted under DR 2-105."

ABA 316 (1967) held that it is a matter of law, not of ethics, as to where an individual may practice law; that the former Canons of Ethics, particularly Canon 33, did not prohibit arrangements for the practice of law between lawyers in different states by which they share in the responsibility and liability of each other if they indicate the limitations on their practice in a manner consistent with the Canons; and that subject to the same limitations, offices of the firm could be opened in both states. The limitations are that they must not mislead the public; must not imply a partnership if none exists; and must clearly indicate on their letterheads after the name of each the limitations of their authority in the state where they have offices.

These limitations are contained in DR 2-102(B), (C) and (D); N.Y. State 175 (1971); N.Y. State 223 (1971); N.Y. State 344 (1974). See also, N.Y. City 662 (1944); N.Y. City 826 (1957); N.Y. City 838 (1959); N.Y. County 375 (1947).

N.Y. State 175 (1971) held:

"To avoid the danger of franchising and the risk of misleading the public, the Committee is of the opinion that a multi-state law firm may not use in New York a name composed of one or more lawyers not admitted to practice in New York unless the local lawyer is a true partner with a real share in the overall profits,

**NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion**

Opinion #352

- 2 -

liabilities and professional responsibilities of the entire firm."

However, the Code does not purport to control the financial arrangements between lawyers who enter into arrangements for the practice of law across state lines. ABA 316 (1967).

In N.Y. State 200 (1971) it was held, among other things, that if a lawyer maintains law offices in more than one community and is engaged in the practice of law in each community in a substantial way, he may list the addresses and telephone numbers of his respective offices on his professional stationery.

We conclude that a law partnership, which includes an out-of-state partner, may carry on its New York law office letterhead its out-of-state address provided: 1) that a true partnership exists; 2) that the out-of-state partner performs services for the partnership in a continuing and substantial way; and 3) the partnership maintains an office for the practice of law in the other state.

The out-of-state address if it is to be listed, must be the address at which the partnership is practicing in the foreign jurisdiction and if the name of a partnership is different in that jurisdiction, that different name should be set forth. On the other hand, where a lawyer is a member of two different partnerships, it would be inappropriate to carry the names and addresses of both firms on the same letterhead.

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