

As explained in EC 2-11:

"The use of a trade name or an assumed name could mislead non-lawyers concerning the identity, responsibility and status of those practicing thereunder. Accordingly, a lawyer in private practice should practice only under a designation containing the lawyer's own name, the name of an employing lawyer, the name of one or more of the lawyers practicing in a partnership, or, if permitted by law, in the name of a professional corporation for the practice of law, which should be clearly distinguished as such"

To the same effect is DR 2-102(B) which provides in pertinent part:

"A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the name of such a professional corporation may contain 'P.C.' or such symbols permitted by law"

Although a law firm is not prohibited from establishing a branch office (ABA Inf. 959 [1966]; ABA Inf. 1082 [1968]), its existence cannot be used as a vehicle for deception. If there is no true relationship analogous to that of partners between the firm's stockholders and the lawyer who is intended to staff its branch office, the use of that lawyer's name for the branch office would be misleading. The relationship to be analogous to that of a true partnership must include a genuine sharing of profits, liabilities and professional obligations. Cf., N.Y. State 175 (1971) (explaining the elements of a genuine partnership) with N.Y. State 231 (1972) and N.Y. State 344 (1974) (holding that a lawyer may be a partner of more than one firm under certain conditions).

Richard Roe has never enjoyed a status analogous to that of partner in John Doe, P.C. or in any predecessor firm. Rather, his status is analogous to that of an associate or mere lawyer-employee. As such Richard Roe does not share in the profits, liabilities and professional obligations of the corporation

to the same extent as those persons who are actually directing its practice and who in fact will have supervisory authority and control over his actions. Cf., EC 6-6 with Business Corporation Law § 1505 ("professional relationships and liabilities"). Clearly, absent any considerations owing to the corporate form in which his employers have elected to practice, Richard Roe's name could not appear in the firm's title. See, DR 2-102(B). Notwithstanding the corporate context of the question posed, we believe that Richard Roe's subordinate position is still of critical importance and precludes the use of his name for the firm's branch office.

For the reasons stated, the question posed is answered in the negative.
