



**New York State Bar Association
Committee on Professional Ethics**

Opinion 1220 (03/31/2021)

Topic: Falsely advertising a partnership among law firms

Digest: Separate and independent law firms may not form a PLLC and advertise themselves as members of “ABC Law Group PLLC” because (i) the name would be a false, deceptive or misleading trade name, (ii) the name would be misleading as to the identity of the lawyers practicing under that name, and (iii) the name would falsely imply that the separate firms were practicing law in association with each other.

Rules: 1.0(h), 7.1(c)(2), 7.5(b) & (c)

FACTS

1. The inquirer proposes to bring together separate law firms into a professional limited liability corporation (“PLLC”), which we shall call “ABC Law Group PLLC.” The member law firms in ABC Law Group PLLC will sign an operating agreement that will set forth various terms and conditions of membership. Under this proposal, ABC Law Group PLLC will maintain a website describing the services provided by the group as a whole and offering a profile of each separate member firm. Each firm’s profile will be linked to the member firm’s own website. Visitors to the ABC Law Group PLLC website who click on a link to a member firm’s website will be advised that they are leaving the ABC Law Group PLLC website.

2. Each individual PLLC member’s letterhead (and other written materials, including engagement letters) will include the words “Member Law Firm” under the name and trademark of ABC Law Group LLC. Client engagement letters will be between the client and the member law firm, not ABC Law Group PLLC. All billing will be done by the member law firms. Member firms may collaborate with each other, and each attorney in a member firm must be insured under a member law firm’s malpractice policy.

QUESTION

3. Is ABC Law Group PLLC a permissible name? Will ABC Law Group PLLC be considered a “law firm” for the purpose of conflict-of-interest rules?

OPINION

4. Under Rule 7.5(b) of the New York Rules of Professional Conduct (“Rules”) as amended effective June 24, 2020, lawyers are permitted to practice under a trade name so long as the name

is not false, deceptive or misleading. *See* N.Y. State 1207 (2020). Here, we have no reason to conclude that, in isolation, the “ABC” portion of the proposed PLLC name violates Rule 7.5(b). Rather, it is the combination of “Law Group” *and* “PLLC” in the name that violates Rule 7.5(b). This is so because Limited Liability Company Law §1203(b) requires that all members of a PLLC must be individuals who are professionally licensed in New York and who practice their profession within the PLLC.

5. Thus, the combination of “PLLC” together with “ABC Law Group” necessarily implies that it is formed to practice law and that the members of the PLLC are associated for that purpose. As the inquiry makes clear, however, that is not the case. Rather, the PLLC members are not practicing law within the PLLC, the PLLC does not enter into engagement agreements with clients, and the PLLC does not bill clients or undertake legal work on their behalf. Accordingly, by implying that the members of the PLLC are associated in the practice of law when they are not, the use of ABC Law Group PLLC as a firm name violates Rule 7.5(b)(1), which provides that a lawyer or law firm shall not practice under a “false, deceptive or misleading trade name” and Rule 7.5(b)(3), which provides that a lawyer or law firm shall not practice under, “a name that is misleading as to the identity of the lawyer or lawyers practicing under such name.”

6. In addition, Rule 7.5(c) provides:

Lawyers shall not hold themselves out as having a partnership with one or more lawyers unless they are in fact partners.

7. A law “partnership” is a form of law firm. The term “law firm” is defined in Rule 1.0(h) as follows:

(h) “Firm” or “law firm” includes, but is not limited to, a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a qualified legal assistance organization, a government law office, or the legal department of a corporation or other organization.

8. Comment [5] to Rule 7.5 builds on Rule 1.0(h) by elaborating on the prohibition against misrepresenting the business relationship among lawyers. Comment [5] states:

Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a “firm” as defined in Rule 1.0(h) because to do so would be false and misleading. In particular, *it is misleading for lawyers to hold themselves out as having a partnership with one or more lawyers unless they are in fact partners*. It is also misleading for lawyers to hold themselves out as being counsel, associates, or other affiliates of a law firm if that is not a fact, or to hold themselves out as partners, counsel or associates if they only share offices. Likewise, law firms may not claim to be affiliated with other law firms if that is not a fact. [Emphasis added.]

9. Thus, lawyers who share office space but have no professional association with each other may not use a designation such as the “777 Lawyers Group” because that would deceive the public about the business status of the lawyers. *See* N.Y. City 82-44 (1982). (Opinion 82-44 also noted

that the designation “777 Lawyers Group” was at that time an “impermissible trade name” under the predecessor to Rule 7.5(b) – but that objection would not apply today.)

10. Nor would our conclusion change if the proposed PLLC and its website were viewed merely as a vehicle for joint advertising. Rule 7.1(c)(2) provides that an advertisement shall not:

(2) include the portrayal of a fictitious law firm, the use of a fictitious name to refer to lawyers not associated together in a law firm, or otherwise imply that lawyers are associated in a law firm if that is not the case.

11. Because we have determined that establishing an association of separate law firms in a PLLC to be named “ABC Law Group PLLC” would violate Rules 7.1(c)(2), 7.5(b), and 7.5(c), we do not reach the second issue posed by inquirer, as to whether that association would be deemed to constitute a single law firm for conflict of interest purposes. However, law firms forming associations should be aware that some forms of association among separate firms may be deemed to be a single law firm, and therefore all member firms may be required to check for conflicts with all other firms. *See* N.Y. State 876 (2011) (“Conflicts of interest will be imputed to all lawyers in all firms with which a lawyer is associated as a partner, associate or of counsel”); N.Y. City 2000-4 (2000) (“affiliated” attorneys or law firms “must consider themselves as one unit for conflict clearing purposes”).

CONCLUSION

12. Separate and independent law firms may not form a PLLC and advertise themselves as members of “ABC Law Group PLLC” because (i) the name would be a false, deceptive or misleading trade name, (ii) the name would be misleading as to the identity of the lawyers practicing under that name, and (iii) the name would falsely imply that the separate firms were practicing law in association with each other.

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