



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

Opinion 1295 (03/12/2026)

Topic: Conflicts of interest; advertising; trust account; opening a solo law practice

Digest: A lawyer not admitted in New York but admitted in New Jersey and the District of Columbia who intends to work for a New York law firm and simultaneously operate his own law firm in New Jersey is subject to various ethical obligations under the New York Rules, including the duty to guard against conflicts of interest as well as the duty to comply with rules related to attorney advertising and attorney trust accounts.

Rules: 1.7, 1.9, 1.10, 1.15, 7.1, 7.3, 8.5

FACTS:

1. The inquirer is a lawyer admitted in New Jersey and the District of Columbia who practices immigration law as a “salaried associate attorney” in a New York City firm. The inquirer is not admitted in New York.
2. The inquirer seeks to establish his own immigration law firm in New Jersey while continuing to work for his current employer (the New York City firm).

QUESTIONS:

3. The inquirer asks the following questions:
 - a. May an attorney operate his own immigration firm while simultaneously employed as an associate attorney at another private immigration firm? If conflicts of interest arise, can the inquirer obtain written conflict waivers to cure any conflicts of interest?
 - b. Are there restrictions on the inquirer’s ability to advertise his own law firm (located in New Jersey) while also employed by a separate law firm in New York?
 - c. Do the ethics rules require the inquirer to separate any income received from his own law firm from income received from his New York employer?
 - d. Is the inquirer prohibited from “maintaining separate trust accounts or sharing office expenses between the two practices?”

OPINION:

4. As a preliminary matter, before addressing the inquirer’s questions, we make the following observations.
5. *First*, our jurisdiction is limited to interpreting the New York Rules of Professional Conduct (the “Rules”). To the extent the inquirer seeks guidance on his obligations under the ethics rules in other jurisdictions (including New Jersey and the District of Columbia), those issues are beyond the scope of this Committee’s jurisdiction.

6. *Second*, this Committee does not opine on issues of substantive law. Many of the inquirer’s questions may trigger obligations beyond the New York Rules, including issues of employment law, principles of fiduciary duty, and related issues. Those issues are also beyond the scope of this Committee’s jurisdiction.

7. *Third*, as noted above, the inquirer is not admitted in New York but is admitted to practice in New Jersey and the District of Columbia. We assume for the purposes of this opinion that the inquirer’s practice is exclusively limited to federal immigration law. As we stated in N.Y. State 863 (2011), “Whether a lawyer who is not admitted to practice law in New York State may engage in a practice within New York State exclusively limited to immigration law is purely a question of law that is not answered by the New York Rules of Professional Conduct and is therefore beyond our jurisdiction.” That remains the case, because the unauthorized practice of law (“UPL”), including by out-of-state lawyers, continues to be governed by statute (*see, e.g.*, N.Y. Judiciary Law §§ 478 and 484).

8. Assuming the inquirer, by virtue of his licensure in other jurisdictions, is not engaged in UPL by practicing federal immigration law in New York, the New York Rules of Professional Conduct might apply to the inquirer’s conduct in New York. Analogizing to N.Y. State 1275 (2024), if a lawyer who is admitted in one jurisdiction “is permitted to engage in conduct in another jurisdiction without being formally admitted in that jurisdiction, the lawyer should be deemed to be ‘licensed to practice’ in the other jurisdiction” (*quoting* N.Y. State 1058 (2015)). Under New York Rule 8.5(b)(2), if the inquirer is deemed to be licensed to practice in New York and “principally practices” in New York, then under Rule 8.5(b)(2)(ii) his conduct in New York may be governed by the New York Rules, unless the “predominant effect” of his work is in some other jurisdiction. Because so many factors are involved in determining which Rules of Professional Conduct apply to a lawyer licensed to practice in multiple jurisdictions, we caution the inquirer that New Jersey or D.C. might apply their versions or interpretations of Rule 8.5 to the inquirer. We express no opinion on the rules of those jurisdictions.

9. New York Rule 8.5(b)(2)(ii) states, “if the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.”

10. The Rules do not prohibit a lawyer simultaneously working for two distinct law firms. Depending on the nature of the inquirer’s practice and the anticipated activities, the Rules may require the inquirer to take certain precautions, including addressing issues related to conflicts of interest and attorney advertising, which are addressed below.

Conflicts of Interest:

11. The inquirer first asks about conflicts of interest. The rule governing concurrent conflicts in New York is Rule 1.7. As amended by New York’s Appellate Division effective November 10, 2025, Rule 1.7(a) provides:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if a reasonable lawyer would conclude that the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that (i) the lawyer's independent professional judgment on behalf of a client will be adversely affected by, or (ii) the representation of one or more clients otherwise will be materially limited by, the lawyer's responsibilities to another client, a former client or a third person or by the lawyer's own financial, business, property or other personal interests.

12. Rule 1.9(a) also prohibits a lawyer from representing a client adverse to a former client in the same or substantially related matter and Rule 1.9(c) prohibits a lawyer from using confidential information belonging to a former client to that former client's detriment.

13. If the inquirer has a conflict under either Rule 1.7 or Rule 1.9, whether in his New Jersey firm or in the New York firm, then Rule 1.10(a) may impute that conflict to all other lawyers in the New York firm. Rule 1.10(a) states that "While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rule 1.7, 1.8 or 1.9, except as otherwise provided therein."

14. Rule 1.10(f) obligates lawyers and law firms to implement and maintain a conflict checking system that will enable the lawyers and law firms to comply with the New York Rules. Here, because the inquirer will simultaneously work for two law firms – the inquirer's own new firm and the private immigration firm where he currently works – both firms would be required to check for and clear conflicts with the inquirer's work. Essentially, because the inquirer plans to be associated with both firms, the two firms would be treated as a single firm for conflicts purposes. *See* N.Y. State 1105 (2016); N.Y. State 876 (2011). To satisfy this obligation, the two firms will need to regularly communicate and share information necessary to effectively check for conflicts.

15. Whether a lawyer is "associated" in a firm is a fact-specific inquiry that will generally depend on the nature of the lawyer's relationship with the firm and the level of access that lawyer has to the firm and client confidential information. *See* N.Y. City 2007-02 (2007). Lawyers employed full-time in a law firm are indisputably "associated" with the firm for purposes of Rule 1.10 and we have opined that even part-time or "of counsel" lawyers will be deemed to be "associated" with a law firm in most circumstances. *See* N.Y. State 1137 (2017); N.Y. State 862 (2011).

16. Here, the inquirer will certainly be "associated" with his own new firm. As to the New York firm where he currently works (and plans to continue working), the inquirer states that he is the firm's only "salaried associate attorney." If the inquirer is a full-time employee of the New York firm, then he is definitely "associated" with his the New York firm. Even if he works at the New York firm only part time (or will work there only part time once he forms his own firm in New Jersey), he will be deemed "associated" with the New York firm if he has access to confidential information of the firm's clients and former clients. If the inquirer is "associated" with the New York firm for purposes of Rule 1.10, then conflicts would be imputed between the inquirer's firm and the New York firm.

17. Accordingly, if the inquirer has a conflict of interest in representing a client – either at the New York firm or at his own firm, that conflict will be imputed to the remainder of the New York firm pursuant to New York Rule 1.10(a).¹ If a conflict is imputed to from the inquirer's New Jersey firm to the New York firm, or from another lawyer in the New York firm to the inquirer, then neither the inquirer nor any other lawyer associated with the New York firm would be permitted to undertake or

¹ *See* N.Y. State 876 2011); N.Y. State 1093 (2016); *Cinema 5 Ltd. v. Cinerama, Inc.*, 528 F.2d 1384 (2d Cir. 1976). The question of whether any conflicts from the New York firm will be imputed to the inquirer's New Jersey firm is governed by the New Jersey Rules of Professional Conduct and is thus beyond the scope of this opinion. Our opinion is limited to addressing whether conflicts arising in his current New York firm or his planned New Jersey firm will be imputed to him and all other lawyers in the New York firm.

continue the representation unless the conflict can be and is waived pursuant to Rule 1.7(b). *See* Rule 1.10(d).

18. The inquirer also asks whether conflicts can be avoided if the inquirer takes measures to “screen potential clients,” which we interpret to mean a process by which individual lawyers at the New York firm would be screened from any involvement in certain client matters at the inquirer’s contemplated New Jersey firm. The Rules do not expressly permit screening to address conflicts of interest caused by a lawyer’s association with more than one law firm. *Cf.* Rule 1.10(c) (as amended effective January 1, 2025, permitting screening for certain types of lateral conflicts).² Accordingly, the inquirer would not be able to avoid conflicts of interest for himself or others at the New York firm by erecting screening measures.

19. Rule 1.7(b) provides that notwithstanding a conflict of interest, a lawyer may still undertake the representation if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

20. Former client conflicts under Rule 1.9 can similarly be waived where the client provides informed consent confirmed in writing. *See* Rule 1.9(a)-(b).

21. Whether a conflict can be waived will depend on the facts and circumstances of each matter that may arise. Certain conflicts may be non-waivable, *see e.g.*, Rule 1.7(b)(1)-(3), and we do not have sufficient facts to determine whether any conflicts that may arise can be waived. However, if the inquirer can comply with Rule 1.7(b) then the inquirer may obtain each affected client’s informed written consent to address conflicts of interest that arise by nature of the inquirer’s simultaneous employment at the New York firm and the inquirer’s own law firm.

Attorney Advertising:

22. The inquirer asks whether there are any restrictions on his ability to advertise his own law firm *located in New Jersey*, while still being employed by a New York firm. The answer to this question involves a choice of law analysis and therefore one that must be analyzed under the New Jersey Rules of Professional Conduct. *See* N.Y. State 1275 and N.Y. State 1058, *supra*. We do not have jurisdiction to analyze the New Jersey Rules.

23. To the extent the inquirer intends to advertise the New Jersey law firm in New York, the New York Rules will apply to the inquirer’s contemplated advertising. *See* Rule 8.5(b)(2)(ii) (where a lawyer is licensed to practice in New York and another jurisdiction, the rules of the jurisdiction where the lawyer’s conduct “clearly has a predominant effect” will apply). *Cf.* Rule 7.3(i) (providing that New York’s regulation on solicitations “shall apply to a lawyer or members of a law firm not admitted to practice in this State who shall solicit retention by residents of this State”).

² We recognize that courts in New York have accepted screening as a basis to deny motions to disqualify under certain circumstances. *See, e.g., Hempstead Video, Inc. v. Incorporated Village of Valley Stream*, 409 F.3d 127, 132 (2d Cir. 2005); *Maricultura del Norte, S. de R.L. de C.V. v. Worldbusiness Capital, Inc.*, 2015 WL 1062167 (S.D.N.Y. Mar. 9, 2015). However, as these cases make clear, the New York Rules are not intended to be binding on courts such that a court must strictly apply the rules in a non-disciplinary context, such as deciding a motion to disqualify.

24. If the New York Rules apply to the inquirer's contemplated advertising, he must comply with Rule 7.1, which governs attorney advertising in New York and imposes various requirements and restrictions depending on the content of the advertisement and the method of distribution, including the requirement that an advertisement cannot include "statements or claims that are false, deceptive or misleading." Rule 7.1(a)(1). In addition, given that he is not admitted in New York, the inquirer should indicate practice limitations on his letterhead and any attorney advertising. *See* N.Y. State 1254 (2023).

25. Similarly, to the extent the inquirer's proposed advertising would constitute a "solicitation" in New York because the proposed communication is directed to or targeted at specific recipients, the inquirer must also comply with Rule 7.3 governing solicitations including the requirement to file a copy of certain solicitations with the applicable attorney grievance committee. *See* Rule 7.3(c)(1).

26. In addition, Rule 7.5(b)(iii), which applies to law firm names as well as professional notices, signs and letterheads, prohibits a lawyer from practicing under "a name that is misleading as to the identity of the lawyer or lawyers practicing under such name."

27. If the inquirer's advertising would be confusing or potentially misleading as to the identity of the lawyers practicing in the inquirer's firm, then we agree that it would be advisable for the inquirer's firm to disclaim any affiliation with the New York firm for which the inquirer also works.

Rule 1.15 Concerns:

28. The inquirer also asks whether the Rules require the inquirer to separate the income received from his own law firm and income received from his New York employer. This question does not implicate the New York Rules and is a legal question on which this Committee cannot opine. The New York rules do not prohibit a lawyer from comingling income that is earned (*i.e.*, funds in which a client or third party has no interest) with other income that the lawyer has earned from other sources. *See generally* Rule 1.15.

29. Rule 1.15 sets forth an attorney's obligations to, *inter alia*, preserve the identity of funds, refrain from comingling or misappropriating funds belonging to third persons, and maintain appropriate bookkeeping records.

30. Rule 1.15(a) states that "A lawyer in possession of any funds or other property belonging to another person, where such possession is incident to his or her practice of law, is a fiduciary, and must not misappropriate such funds or property or commingle such funds or property with his or her own."

31. Rule 1.15(b) requires that a lawyer who is in possession of funds belonging to another person "incident to the lawyer's practice of law shall maintain such funds in a banking institution within New York State that agrees to provide dishonored check reports in accordance with the provisions of 22 N.Y.C.R.R. Part 1300." Rule 1.15(b)(1); *see also* N.Y. State 1058 (2015) (applying choice of law to determine whether lawyer practicing federal immigration law is required to maintain a trust account with a New York banking institution).

32. Rule 1.15(b)(2) states: "A lawyer or the lawyer's firm shall identify the special bank account or accounts required by Rule 1.15(b)(1) as an "Attorney Special Account," "Attorney Trust Account," or "Attorney Escrow Account," and shall obtain checks and deposit slips that bear such title. Such title may be accompanied by such other descriptive language as the lawyer may deem appropriate, provided that such additional language distinguishes such special account or accounts from other bank accounts that are maintained by the lawyer or the lawyer's firm."

33. Rule 1.15(b) applies to funds that the lawyer possesses “incident to the lawyer’s practice of law” in New York. Therefore, if the inquirer is in possession of funds belonging to a client or third-party incident to the inquirer’s practice of law in New York, the inquirer must comply with all provisions of New York Rule 1.15.

34. The inquirer must also keep adequate bookkeeping records, which must be kept for seven years, which show: “(i) the records of all deposits in and withdrawals from the accounts specified in Rule 1.15(b) and of any other bank account that concerns or affects the lawyer’s practice of law; these records shall specifically identify the date, source and description of each item deposited, as well as the date, payee and purpose of each withdrawal or disbursement; (ii) a record for special accounts, showing the source of all funds deposited in such accounts, the names of all persons for whom the funds are or were held, the amount of such funds, the description and amounts, and the names of all persons to whom such funds were disbursed; (iii) copies of all retainer and compensation agreements with clients; (iv) copies of all statements to clients or other persons showing the disbursement of funds to them or on their behalf; (v) copies of all bills rendered to clients; (vi) copies of all records showing payments to lawyers, investigators or other persons, not in the lawyer’s regular employ, for services rendered or performed; (vii) copies of all retainer and closing statements filed with the Office of Court Administration; and (viii) all checkbooks and check stubs, bank statements, prenumbered canceled checks and duplicate deposit slips.” Rule 1.15(d)(1)(i)-(viii); see also N.Y. State 1058 (2015), *supra*.³

35. Here, the inquirer asks whether he would be “prohibited” from maintaining separate trust accounts for the New York firm and the inquirer’s own practice. The Rules do not prohibit the inquirer from maintaining separate trust accounts for the New York firm and the inquirer’s own practice, and, depending on the circumstances under which the inquirer is receiving funds belonging to clients or third parties, the inquirer may be *required* to maintain separate trust accounts.⁴

36. Finally, the inquirer asks whether he is permitted to share office expenses between the two firms. The Rules do not prohibit two law firms from sharing office expenses. However, we note that an agreement between two firms that hold themselves out as separate and distinct from one another to share certain overhead expenses may support the argument that the two firms are associated for purposes of Rule 1.10. *Accord* N.Y. State 793 (2006).

CONCLUSION:

37. A lawyer not admitted in New York but admitted in New Jersey and the District of Columbia who intends to work for a New York law firm and simultaneously operate his own law firm in New Jersey is subject to various ethical obligations under the New York Rules, including the duty to guard against conflicts of interest as well as the duty to comply with rules related to attorney advertising and attorney trust accounts.

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³ The Lawyers’ Fund for Client Protection also maintains useful information for lawyers on compliance with Rule 1.15 generally and trust account obligations specifically. See <https://www.nylawfund.org/site/escrow-ethics-materials>.

⁴ Although an interpretation of the New Jersey Rules of Professional Conduct is outside the scope of this opinion, we observe that the inquirer may also be required to comply with New Jersey’s version of Rule 1.15 for funds in the inquirer’s possession incident to his practice in New Jersey.