

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-299
Issued: January 1985

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), especially Rules 7.01-7.50 and the Attorneys' Advertising Commission Regulations, before relying on this opinion.

Question: May three separate firms assume the use of a common firm name or show the fact of association or affiliation in their letterheads, business cards, office signs and announcements?

Answer: No.

References: DR 2-102(B); DR 2-102(C); EC 2-11; EC 2-13; KBA E-62; KBA E-259; *In re Sussman and Turner*, Or., 405 P.2d 35; (1965).

OPINION

This request raises questions concerning circumstances under which three separate law offices may hold themselves out to the public as either a single firm or affiliated firms. The proposal considered by the Committee is for an “umbrella firm” containing three separate offices with shared facilities in which there would be no sharing of fees or reciprocal financial responsibility. There would be a splitting of fees (in a manner permitted by the Code) but the relationship would not be a partnership in the common sense.

Under Canon 2, a lawyer is charged with the responsibility of assisting the legal profession in making legal counsel available. This includes the responsibility to assist the public in the selection of legal counsel. In this regard, lawyers are cautioned against any activity that might mislead an individual in his or her selection of counsel.

It is made clear in DR 2-102(B) that an attorney may not practice under a firm name containing names other than attorneys in the firm. DR 2-102 (C) states that a lawyer may not hold himself out as having a partnership with other lawyers unless they are in fact partners. EC 2-13 states:

In order to avoid the possibility of misleading persons with whom he deals, a lawyer should be scrupulous in the representation of his professional status. He should not hold himself out as being a partner or associate of a

law firm if he is not one in fact, and thus should not hold himself out as a partner or associate if he only shares offices with another lawyer.

The “holding out” addressed by these rules applies to the firm name, letterhead, business cards, office signs and announcements. *In re Sussman and Taylor, Or.*, 405 P.2d 355 (1965) The issue raised in this request has been addressed in KBA E-62 and KBA E-259.

It is the opinion of the Ethics Committee that the proposed organization would convey to the general public the appearance of a partnership when in fact no such partnership exists. It is, therefore, an activity prohibited by the Code of Professional Responsibility.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.