

Committee Opinion
July 24, 1990

Committee Reconsideration
November 15, 1990
LEGAL ETHICS OPINION 1369

ADVERTISING AND SOLICITATION –
LAW FIRMS: ABBREVIATING NAME
OF PROFESSIONAL CORPORATION.

You have advised that your firm, comprised of approximately 45 attorneys practicing throughout the Commonwealth, currently uses its full legal name which consists of the named shareholders followed by the phrase “a Professional Corporation” to denote the nature of its legal entity.

You have asked that the Committee consider the propriety of the firm's deleting the use of the phrase “a Professional Corporation,” including instead the phrase “Attorneys at Law.” You indicate that the appropriate fictitious name certificate would be filed should the use of the new denomination be proper.

The appropriate and controlling rules are DR:2-102(A), which prohibits the use of any professional notice or device if it includes a statement or claim that is false, fraudulent, misleading or deceptive, and DR:2-102(C), which prohibits a lawyer from holding himself out as having a partnership with one or more other lawyers unless they are in fact partners. Further guidance is provided in Ethical Considerations 2-13 [EC:2-13] and 2-15 [EC:2-15] which provide, respectively, that the use of a name which could mislead laypersons concerning the identity, responsibility, and status of those practicing under a particular name is improper, and that a lawyer should be scrupulous in the representation of his professional status. The Committee is also cognizant of the legal authority for the use of the firm's name without the designation indicating that the entity is a professional corporation. The reconciliation of the two pertinent Code sections (§ 13.1-544.1 and § 13.1-630 A) is, however, a legal question beyond the purview of this Committee.

The Committee believes that the general spirit of DR:2-102(C) would not be damaged by the use of the new version of the firm name since the individuals named in the firm designation are or were during their lifetimes actually associated in the practice of law. (See LE Op. 325) Nevertheless, the Committee is of the opinion that the complete elimination of any reference to the corporate status of the firm would be improper under DR:2-102(A) since it has the potential to mislead laypersons into erroneous conclusions regarding the personal liability of the shareholders and associates affiliated with the law firm. Although the Committee has earlier opined that it is not *per se* improper for a professional corporation to practice law under a fictitious name, the Committee is presently of the opinion that the permissible use of a fictitious name does not obviate the need for the firm to indicate the nature of its corporate identity in order to avoid misleading the general public. (See LE Op. 935, LE Op. 937) The Committee believes that your firm's proposed use of the phrase “Attorneys at Law” would be insufficient to provide such information.

The Committee finds no ethical impropriety in your firm's use of the phrase “a professional legal corporation” following the firm name. (See LE Op. 1242) Whether

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such a phrase is legally permissible under any applicable Virginia Code sections governing professional corporations, however, raises a legal question beyond the purview of the Committee.

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