

Committee Opinion
May 11, 1993

LEGAL ETHICS OPINION 1532

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ASSOCIATE STATUS.

You have presented a hypothetical situation in which a firm wishes to use the term "and Associates" to describe the following relationship. The associate (junior) attorney works in the same offices, represents the firm in cases, and is disclosed on the retainer agreement. The associate's hours are billed through the firm, and the associate is paid on a per-case basis by the firm. The associate also has his own cases which are not related to the firm's work. The principal of the firm and associate have separate malpractice policies. The associate pays rent for an office and also works part-time for the firm.

You have asked the committee to opine whether, under the facts of the inquiry, it is proper for the firm to use "and Associates" in its identification. You also ask what circumstances define an associate position.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:2-102(A), which states that a lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterhead, telephone directory listing, law list, legal directory listing, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading or deceptive.

Since the junior attorney is employed part-time by the firm and represents the firm in cases, the committee believes that the attorney may properly be termed an "associate". Also, under the facts you have posited, the committee believes that the arrangement described goes beyond that of office sharing. See EC:2-15. Under the facts you have presented, the committee is of the opinion, however, that it is improper for the firm to use the term "and Associates" in its identification unless the principal attorney employs at least two lawyers. See LE Op. 1492.

As for a definition of "associate", the committee adopts the meaning given to the term in ABA Formal Opinion No. 330 (August 1972) which recognizes the word as describing a lawyer employee of a firm. See also *In re Sussman*, 405 P.2d 355 (1965). Further, the opinion added that the term may be used to describe "a situation in which the firm or the individual [lawyer] has other lawyers working for them or him who are not partners and who do not generally share in the responsibility and liability for the acts of the firm". See also ABA Opinion 310 (1941); Chicago Bar Association Legal Ethics Opinion, ABA/BNA Law. Man. on Prof. Conduct, 801: 3201.