

Opinion 436
November 1986
Tex. Comm. On Professional Ethics, Op. 436, V. 49 Tex. B.J. 1085 (1986)

QUESTION PRESENTED

May a law firm include on its letterhead the name of a legal assistant and initials indicating the legal assistant's certification with a notation that the person is a legal assistant and is not licensed to practice law?

DISCUSSION

A law firm's letterhead constitutes a means of communication about the law firm. As such, a law firm's letterhead is subject to the general requirement of Disciplinary Rule ("DR") 2-101(A) of the Texas Code of Professional Responsibility, which provides in pertinent part that "[a] lawyer shall not make, on behalf of himself, his partner, associate, or any other lawyer, any false or misleading communication about the lawyer or the lawyer's services."

Although a legal assistant is not a licensed lawyer, a law firm's false or misleading communication about a legal assistant and the legal assistant's relationship to the law firm would come within the prohibition set forth in DR 2-101(A). However, an accurate and dignified listing of a legal assistant's name and any certification on the letterhead of the law firm employing the legal assistant with an indication that the person is a legal assistant and is not licensed to practice law would not in normal circumstances constitute a communication that was false or misleading about the law firm or the legal services provided by the firm. Rather, such information would be truthful information which is not prohibited by the Texas Code of Professional Responsibility. Compare Committee Opinion 403 (*Texas Bar Journal*, January 1982) (holding permissible the accurate and dignified listing of a legal assistant's name on an attorney's or law firm's business card approved by the attorney or law firm).

Opinion 390 of this Committee (*Texas Bar Journal*, April 1978) held that it was not permissible for the name of a legal secretary not licensed to practice law to be listed on a law firm's letterhead, but Opinion 390 was based on a version of DR 2-102 that no longer applies after the extensive revision of DR 2-101 through 2-104 effective September 1, 1982. Since Opinion 390 is not consistent with the requirements of the current provisions of the Texas Code of Professional Responsibility as interpreted in this opinion, Opinion 390 is overruled.

CONCLUSION

The Texas Code of Professional Responsibility does not prohibit the accurate and dignified listing on a law firm's letterhead of the name and any certification of a legal assistant employed by the firm with a further designation that the person is a legal assistant and is not licensed to practice law. Committee Opinion 390 (*Texas Bar Journal*, April 1978) is overruled. (9-0 vote)