Ethics Opinion No. 71-3

Propriety of Firm Names Including Lawyers not Admitted in Alaska.

On February 11, 1969 the Committee published an opinion holding that the establishment of a partnership for the practice of law in Alaska between lawyers admitted in Alaska and lawyers who are not admitted in Alaska is permissible and that the firm name used in Alaska may included only the names of partners admitted in Alaska.

The Committee has now been asked whether its conclusion that a firm name may not include the name of an attorney not admitted in Alaska has been changed by DR 2-102(D) which states:

"A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings, make clear the jurisdictional limitations of those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction."

The Code of Professional Responsibility has been approved in Alaska by the Board of Governors of the Alaska Bar Association and by the Supreme Court of the State of Alaska. The Committee's opinion of February 11, 1969 should therefore be taken as no longer controlling on the question.

The Committee recommends that the Board of Governors of the Alaska Bar Association and the Supreme Court of the State of Alaska amend DR 2-102(D) as far as the same is applicable in Alaska by eliminating the language, "however, the same firm name may be used in each jurisdiction." We make this recommendation because we believe that explanatory statements on the letterhead, office signs, telephone directory listings, etc. are entirely inadequate to destroy the natural implication that all persons whose names are part of the firm name are entitled to practice in Alaska. This is so because when the name is used in common parlance it will ordinarily not be accompanied by the disclaimers needed to tell the listener who among the named members of the firm are disqualified from practicing law in Alaska. Drinker states:

"The partnership name may not include that of one not locally admitted, despite explanatory statements on the letterhead, shingle, etc. since the name, used where no such explanation accompanied it, would imply that all the named partners were locally admitted." Drinker, *Legal Ethics*, p. 205.

We find no social utility in allowing a firm name to contain the name of a lawyer not permitted to practice in Alaska; on the other hand there are substantial opportunities for the abuses of misrepresentation and advertising inherent in this practice. For these reasons we strongly recommend that the

Board of Governors of the Alaska Bar Association and the Supreme Court of Alaska amend DR 2-102(D) as suggested in this opinion.

Adopted by Board of Governors on May 26, 1971.

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