

FORMAL OPINION NO. 123

The Ethics Committee has been requested to render an opinion as to whether it is permissible for an attorney to advertise in telephone directories or other publications in a city, utilizing a local telephone number and an address in that city, when such attorney does not actually have an office in that city.

This question involves an interpretation of Rule 7.1, which provides, in pertinent part:

RULE 7.1 Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

- a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

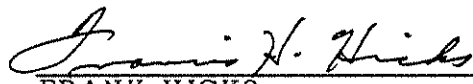
The committee believes that prospective clients would consider the location of the office to be material in selecting an attorney.

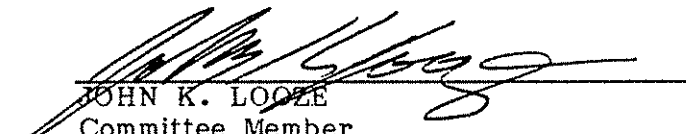
In the opinion of the committee, the listing of the local telephone number and mailing address in the advertisement would suggest to a prospective client that the lawyer has a local office and a physical presence in that city. This would have a tendency to mislead potential clients, especially those who prefer to engage an attorney in their locality.

It is therefore the opinion of the committee that such an advertisement does contain a material misrepresentation of fact and also omits a fact necessary to make the statement considered as a whole not materially misleading; i.e. the fact that the advertising attorney has no office or physical presence in the city in which he is advertising. If such a disclaimer were added to the advertisement, it is the opinion of the committee that there would be no violation of Rule 7.1.

Dated this 19 day of July, 1988.

  
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JEFFREY STROTHER  
Committee Chairman

  
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FRANK HICKS  
Committee Member

  
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JOHN K. LOOZE  
Committee Member