
E-79-9 Interstate association of law firms

Facts and Questions

A Wisconsin lawyers service corporation is located near the Michigan border. It desires to form an association with two Michigan law firms under the following form: Each of the firms would retain its own identity. Each would continue to maintain its own offices, its own trust accounts and would in all respects continue to be independent law firms. Each would, however, agree to provide legal services to clients of the other law firms in this association upon referral of those clients. The Wisconsin corporation would provide service in Wisconsin to the clients of the Michigan associates. It would normally charge the Michigan associates directly for the services provided at its normal hourly rates and the Michigan firms would be responsible to collect the full amount of fees from the client and pay the Wisconsin corporation its portion. Each would maintain separate letterheads identifying its firm name but would show the other firms' names as "Wisconsin office" or "Michigan offices" but indicate the jurisdictions in which the members of those firms were admitted to practice.

Further, the participants would probably agree to cooperate on purchases of items such as equipment, libraries, computer time, etc. They would expect to place a tombstone-type ad in the local newspapers setting forth the nature of this association and would probably have referral numbers listed in the telephone book as well.

Opinion

With respect to the practice of law across state lines, the State Bar of Wisconsin formally adopts ABA Formal Opinion 316, dated January 18, 1967, and entitled "The Practice of Law Across State Lines."

5. Subject to the requirement of Canon 34 that any division of fees based upon a division of service or responsibility, the Canons of Ethics do not purport to control the financial arrangements between lawyers who enter into arrangements for the practice of law across state lines. Such persons could be partners, associates, or employees. They could share in fees based on a division of responsibility or work, or they could be paid a salary, or a per diem. The key as to whether it is ethical in no way turns on whether the lawyer in State I is in

partnership with the lawyer in State II or whether he is an employee of the lawyer in State II, or an associate of the lawyer in State II, or an employee of the lawyer in State II. The local lawyer is the one who is practicing law, whether he obtains assistance from a partner in another state, or from an employer in another state, or from an associate in another state or from an employee in another state. How they are being paid (all being lawyers), or how the client's fee is dispersed through the practice arrangements (among the lawyers in association with one another—partnership, association, or employment) is of no consequence to the Canons of Ethics as they relate to the practice across state lines. The important requirement in this respect is simply that the local man must be admitted in the state and must have the ability to make, and be responsible for making decisions for the lawyer group. 53 A.B.A.J. 353.

The proposed letterhead, however, is deceptive, misleading and in violation of the Wisconsin Supreme Court order of April 30, 1979. Using the term "Michigan offices" implies an actual partnership and misleads the reader as to the actual relationship between the firms.

If the Michigan law firms use the term "Wisconsin office" on their letterheads they would also imply that they are authorized to practice law in Wisconsin.

With the addition after the name and address of the lawyer in the other state under the heading "Of Counsel," of the phrase "Not admitted to practice in (state)" or the phrase "Admitted only in (state)" or similar words to negate any implication of entitlement to practice, we believe the letterheads proposed to be used would be in compliance with the Canon of Ethics. Without such addition we believe it would be improper. See ABA Informal Opinion 1007.