

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-389
Issued: March 1996

Since the adoption of the Rules of Professional Conduct in 1990, the Kentucky Supreme Court has made substantial revisions to rules governing the advertisement of legal services. For example, this opinion refers to Rule 7.10, which was renumbered to Rule 7.15. Lawyers should consult the current version of the rules and comments, SCR 3.130 (available at <http://www.kybar.org>), and the Attorneys' Advertising Commission Regulations, before relying on this opinion.

Question: Is it ethical for lawyers to practice under a partnership name - e.g. "Jones & Smith" - if they are not, in fact partners?

Answer: No.

References: KRPC 7.50(4); DR 2-102(C); KBA E-259 (1982); KBA E-62 (1972); ABA/BNA Law.Man.Prof.Con. 91:206; Charles Wolfram, Modern Legal Ethics 882-883 (1986)

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The cited reference make it clear that the answer to the question has been "No" for many years now, was "No" under the Code, and is "No" under the KRPC. We also note in passing that in addition to being disciplined for violations of KRSPC 7.50(4) and 7.10 (for use of "false, deceptive or misleading" advertising) lawyers may face liability under the doctrine of "partnership by estoppel." However, the latter question is a legal question upon which the Committee cannot opine definitively.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.