

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-396
Issued: March 1997

The Rules of Professional Conduct are amended periodically. Lawyers should consult the current version of the rules and comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: May lawyers who are not members of the same law firm use the following name in their letterhead, brochures, and advertising - “Able, Baker, Charles, & Dilbert” [Subtitle: An Association of Attorneys].

Answer: No.

References: KRPC 7.50(4); KBA E-311 (1986); ABA Formal Ops. 94-388 (1994); 84-351 (1984).

OPINION

In KBA E-311 the Committee concluded that separate firms could note that they are “affiliated” or “associated” with other separate firms so long as (1) the relationship between the firms is “close and regular, and not merely that of forwarder-receiver of legal business”; (2) the “affiliate” is available to the other firm and its clients for consultation and advice; and (3) the firms recognize that they are “associates” for purposes of conflicts of interest rules. However, KBA E-311 rejected the use of a “common firm name” or “umbrella” firm name.

We agree with ABA Formal Op. 94-388 (1994) that there is a misrepresentation when associated or affiliated lawyers all use the same firm name when in fact all the firms or lawyers bearing the same name are not part of the same firm, and that the use of “one- or two-word shorthand expressions is not sufficient” to cure the misleading nature of the communication.

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.