

## STATEWIDE GRIEVANCE COMMITTEE



### **Advisory Opinion #09-06730-A Post Card Advertisement Mailed to Investment Fund Managers**

Pursuant to Practice Book §2-28B, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, reviewed a request for an advisory opinion filed on November 10, 2009. The proposed print advertisement is a post card which will be mailed to investment fund managers in Connecticut. The submitting attorney is licensed to practice in Connecticut but has a law office address in New York. The reviewing committee concluded that the advertisement complies with the Rules of Professional Conduct.

The postcard provides the following information: the name of the attorney, the phrase "professional corporation," and the law firm address in the return address portion of the postcard. Underneath at the bottom is the phrase: "IS YOUR MONEY MANAGEMENT FIRM READY to navigate a major federal regulatory overhaul?" On the reverse side of the postcard, a series of questions are posed to financial services firms regarding SEC regulations and various compliance issues. Underneath is the phrase "**Attorney Advertising Material**. Prior results do not guarantee a similar outcome." On the right side of the proposed advertisement is a photograph of the attorney, accompanied by a paragraph describing her legal experience, her phone number, and email address, and her name and signature.

The proposed advertisement complies with Rule 7.2(d) of the Rules of Professional Conduct by listing the name of at least one attorney admitted in Connecticut responsible for its content. Pursuant to Rule 7.2(i), the above referenced information referencing the attorney's

address, phone number and email address is presumed not to violate the provisions of Rule 7.1 of the Rules of Professional Conduct, and therefore is not false or misleading.

The attorney is admitted in Connecticut but her law office is located in the state of New York. Since she is soliciting clients in Connecticut, the fact of her admission to Connecticut might be unclear to her potential clients. Pursuant to Rule 7.1, statements made in attorney advertising shall not be misleading. The omission of the attorney's Connecticut license is not misleading based on the record before us, since the postcard advertises her federal regulatory practice. Rule 7.2(d) requires the name of an attorney admitted in Connecticut but does not require that fact be stated in the advertisement. While not required by Rule 7.2(d) this reviewing committee recommends that the attorney list her admission to practice in Connecticut to avoid any confusion created by her New York office address.

Practice Book § 2-28A mandates the filing of certain types of attorney advertising with the Statewide Grievance Committee. There are several exceptions to the mandatory filing requirements. Practice Book § 2-28A (b) lists the types of advertisements and Rule 7.2(i) of the Rules of Professional Conduct lists the types of information that are exempt from the mandatory filing requirements of Practice Book § 2-28A. Practice Book § 2-28B (b) (5) (ii) provides that the filing requirements of Practice Book § 2-28A (a) do not apply to "a communication sent only to: [o]ther attorneys or professionals; business organizations...." Therefore, if this postcard is sent exclusively to investment managers of financial services firms, this advertisement does not need to be filed with the Statewide Grievance Committee.

Since the attorney has requested an advisory opinion regarding the contents of the proposed

advertisement as attorney advertising, we reviewed it for compliance with the Rules of Professional Conduct even though it is not subject to the mandatory filing rules. In the series of questions posed and in the paragraph describing the requesting attorney's legal experience, there are no statements promising certain results or characterizing the attorney as a specialist, which would violate Rules 7.1, 7.4 and 7.4A of the Rules of Professional Conduct. The attorney has provided a disclaimer regarding prior results and has labeled the postcard as "attorney advertising" though it is not required by Rules 7.1 or 7.3 in this circumstance.

Accordingly, this reviewing committee opines that the advertisement complies with the Rules of Professional Conduct.

(E)

ISSUE DATE: December 7, 2009



Attorney Howard M. Gould



Attorney Margarita Moore

  
Mr. Peter M. Jenkins