

STATEWIDE GRIEVANCE COMMITTEE



Advisory Opinion #08-04739-A Direct Mail Letter to Attorneys Business Cards Rule 7.4

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 August 7, 2008. The proposed print advertisement is a letter which will be mailed to individual attorneys with two of the requesting attorney's business cards enclosed. The reviewing committee concluded that the advertisement complies with the Rules of Professional Conduct.

The letter provides the following information in the letterhead: the name of the law firm which is "[Attorney last name] Tax Law LLC"; street address and P.O. Box number; telephone and fax number; email address of the law firm; the full name of the attorney and the jurisdictions where she is admitted to practice. The enclosed business card contains the firm name, the requesting attorney's name, phone and fax numbers, website and email addresses, office address and post office box number.

Pursuant to Rule 7.2(i) of the Rules of Professional Conduct, all of the above referenced information is presumed not to violate the provisions of Rule 7.1 of the Rules of Professional Conduct and therefore is not false or misleading.

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." Therefore, if this letter is sent exclusively to other attorneys, this advertisement does not need to be filed with the Statewide Grievance Committee.

The business cards enclosed with the letter contain only the type of information listed in the subsections of Rule 7.2(i). Such information, commonly called "tombstone" information, according to Practice Book § 2-28A (b) (1) is not subject to the mandatory filing requirements of Practice Book § Rule 2-28A.

Since the attorney has requested an advisory opinion regarding the contents of the letter 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. The letter describes the nature of the requesting attorney's tax practice and experience in tax negotiation, specifically working with the Internal Revenue Service. The letter contains the following sentences: "For 36 years, I have devoted my career to individual and small business tax, with an emphasis on negotiation of the payment or compromise of past due payroll and income taxes;" (emphasis added) and "We have been doing this for 36 years, and tax is ALL we do."

Rule 7.4 controls the ability of an attorney to describe their areas of practice. Rule 7.4 states:

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer may not state or imply that the lawyer is a specialist except as follows and as provided in Rule 7.4A.

The commentary to the current rule further provides:

If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, stating that the lawyer is a "specialist" or that the lawyer's practice "is limited to" or "concentrated in" particular fields is not permitted. These terms have acquired a secondary meaning implying formal recognition as a specialist.

Rule 7.4 will change effective January 1, 2009. The limitation on terms of "secondary meaning" has been substantially modified. The commentary will now state:

A lawyer may indicate that the lawyer "concentrates in," "focuses on," or that the practice is "limited to" particular fields of practice as long as the statements are not false or misleading in violation of Rule 7.1. However, the lawyer may not use the terms "specialist," "certified," "board-certified," "expert" or any similar variation, unless the lawyer has been certified in accordance with Rule 7.4A.

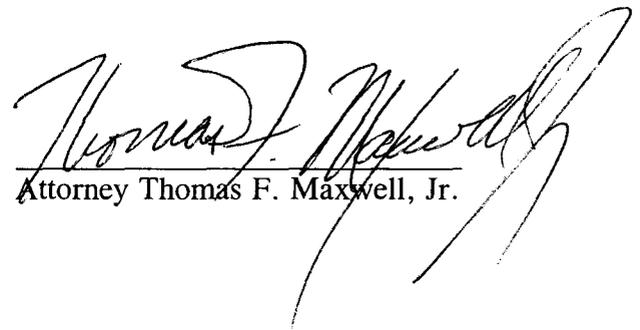
The phrase in the proposed advertisement that states the requesting attorney's tax practice has an emphasis on negotiation of the payment or compromise of past due tax obligations would violate the commentary to the current version of Rule 7.4, but would be in compliance with the Rule as it will be effective January 1, 2009. Since Rule 7.4 is to change effective January 1, 2009, this reviewing committee will not require the proposed advertisement to comply with the more restrictive requirements of a soon to be revised Rule 7.4.

The phrase in the proposed advertisement that states that tax is all they do comes closer to implying a specialization, particularly in regards to the current version of Rule 7.4. Since the sentence essentially states that the attorney's practice is limited to that area, this committee will not require that phrase in the proposed advertisement be changed for the reasons stated above.

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

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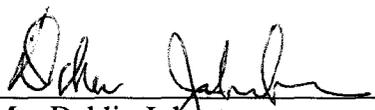
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