

ETHICS ADVISORY OPINION

17-01

UPON THE REQUEST OF A MEMBER OF THE SOUTH CAROLINA BAR, THE ETHICS ADVISORY COMMITTEE HAS RENDERED THIS OPINION ON THE ETHICAL PROPRIETY OF THE INQUIRER'S CONTEMPLATED CONDUCT. THIS COMMITTEE HAS NO DISCIPLINARY AUTHORITY. LAWYER DISCIPLINE IS ADMINISTERED SOLELY BY THE SOUTH CAROLINA SUPREME COURT THROUGH ITS COMMISSION ON LAWYER CONDUCT.

Factual Background:

Lawyer is a solo practitioner with a virtual law office. (Lawyer represents that he practices wherever his smart phone and his laptop are, which, at any given moment, might be at Lawyer's home, a coffee shop, a park, Lawyer's car, or out of town on vacation.) Lawyer's practice generates very little paper, which is kept at Lawyer's house. Lawyer does not see clients in Lawyer's house; instead, Lawyer meets clients at their places of business or at a third-party meeting space. Lawyer uses a post office box for all law practice related mail.

Lawyer does not actively advertise the law practice beyond a single online directory listing. Lawyer is considering increasing his web presence for advertising purposes, but Lawyer does not want to disclose his home address to the public.

Question Presented:

Will the inclusion of a post office box address in advertising materials satisfy the requirement in Rule 7.2(d) that advertising communications include the office address of at least one lawyer responsible for its content?

Summary:

A post office address qualifies as an "office address" for purposes of Rule 7.2(d) provided the post office address is on file as the lawyer's current mailing address in the lawyer's listing in the AIS.

Opinion:

Rule 7.2, SCRPC, sets out certain restrictions upon and obligations of lawyers who advertise. One of the obligations imposed by the Rule is that "[a]ny communication made pursuant to [Rule 7.2] shall include the name and *office address* of at least one lawyer responsible for its content." (Emphasis added.) Rule 7.2(d).

The term “office address” is not defined in the Rules of Professional Conduct, but “[t]he Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself.” Scope [1], SCRPC.

The purpose of Rule 7.2(d) is to provide accountability for the content of lawyer advertising. Rule 7.2, Comment [10]. It provides accountability by ensuring that potential consumers of the services of a lawyer or law firm have a point of contact for the lawyer or law firm, along with an address for the purpose of communicating with that point of contact. While a physical address will allow for such communication, the same is true of a post office box address.

It used to be that lawyers only worked out of brick and mortar structures and everyone had a street address. However, as the North Carolina Bar has recognized in addressing this same question, the practice of law has changed.

...[R]equiring a street address in all legal advertising has proved problematic, particularly as the number of lawyers working from home offices or operating virtual law practices has increased. The requirement is no longer practical or necessary to avoid misleading the public or to insure that a lawyer responsible for the advertisement can be located by the State Bar.

2012 N.C. Formal Eth. Adv. Op. 6 at 2 (<http://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/2012-formal-ethics-opinion-6/#.WEBYPgNCifY.email>). Moreover, in South Carolina, as in North Carolina, the State Bar accepts post office addresses as a lawyer’s address. In addition, the Supreme Court of South Carolina accepts post office addresses as a lawyer’s address for purposes of its Attorney Information System¹ (AIS), and the contact information provided by lawyers for AIS is the “official contact information” for them. *See* Rule 410(e), SCACR (“The mailing and e-mail address shown in the AIS shall be used for the purpose of notifying and serving the member.”).

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¹ “The AIS is a web-based system developed by the South Carolina Judicial Department to maintain and update information regarding members of the South Carolina Bar. Members use this system, which is accessed using a user name and password, to verify and update their contact information, and view their membership class and status. The mailing and e-mail address shown in the AIS shall be used for the purpose of notifying and serving the member.” Rule 410(e), SCACR.

AIS. The committee notes that Rule 7.2(h) also imposes a geographic location disclosure requirement, which is not addressed by this opinion.²

² See also *In re Jardine*, 410 S.C. 369, 764 S.E.2d 924 (2014) (lawyer had several issues with a direct mail solicitation, including the listing of a “virtual office” in one state that he only used for the purpose of receiving mail when, in reality, he actually worked from an office in another state).