

A Pointer About Firm Names

A client retains the law office of Ichabod Crane and Associates to handle a complex legal problem. When he arrives at the office to sign a retainer agreement, he inquires of Mr. Crane, who is sitting by himself in a one-desk office, who are your associates and where do they sit? Mr. Crane laughs and explains that it was a marketing idea. He wanted to attract more quality clients so he added "and Associates" to give the impression his firm was bigger than it really was. In fact, Mr. Crane practices law by himself and has no associates. Problem?

State bar opinions are in accord that if there are in fact no associates, then an attorney cannot use "and Associates." Such a term is misleading and false. HRPC 7.1 (a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services); HRPC 7.5(a) (a lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1); HRPC 8.4(c) (it is professional misconduct for a lawyer to engage in misrepresentation). Even if Mr. Crane employs a legal secretary or an assistant or two, the fact remains that he has no associates, and he cannot give that misimpression. Likewise, Mr. Crane is not a "law group."

Disciplinary Board Formal Opinions

Disciplinary Board Formal Opinions are issued by the Board and address questions of broad interest and applicability to the members of the Hawaii Bar. The Board does not issue formal written ethics opinions addressing individual situations or circumstances. Formal written opinions are binding on all members of the bar and

violations thereof may result in discipline.

In order to assist members of the bar, the following is a quick reference guide to Disciplinary Board Formal Opinions ("FO") currently in effect:

22	Sharing Office Space (INCORPORATES FO 18 AND UPDATED TO REFLECT HRPC ON 06/28/01)	10/13/78
24	Gifts (UPDATED TO REFLECT HRPC 06/28/01)	05/22/79
28	Retaining Lien (UPDATED TO REFLECT HRPC ON 06/28/01)	12/22/83
31	Donating Legal Services to a Charitable Organization	05/28/92
32	Charging Interest on Client's Outstanding Account (SUPERSEDES FO 3)	12/11/92
34	Obtaining Loan Financing for Clients	08/02/94
35	Credit Cards (SUPERSEDES FO 5)	10/31/96
36	Insurance Defense Counsel's Disclosure of Confidential Client Information to Insurer's Outside Auditors	03/25/99
37	Insurer Guidelines for Insurance Defense Counsel	05/27/99
38	Disclosure of Deceased Client's Confidential Information	05/27/99
39	Unauthorized Receipt of Privileged or Confidential Materials	04/26/01
40	E-Mail Security	04/26/01
41	Attorney Web Sites	04/26/01
42	Captive Law Firms	03/28/02
43	Of Counsel (Amended April 24, 2003)	03/28/02
44	Pro Se Communication	04/24/03
45	Handling Credit Card Payments	06/26/03
46	Referral Fees	06/26/03
47	Cost to Client for Use of a Contract Attorney	01/28/04
48	Public Defender Imputed Disqualification	08/26/04

Notice Of Rule Changes

Effective July 1, 2008, the Title and Lawyers' Fund Rule 6 of the Rules and Regulations of the Lawyers' Fund for Client Protection of the Supreme Court of Hawaii ("LF") have been amended. LF 6.2 raises the award amount per any one claimant to \$100,000 from \$50,000 and the aggregate on account of claims arising out of the dishonest conduct of any one attorney to \$300,000 from \$150,000. The Trustees had requested that all references in the Rules and Regulations to "Lawyers' Fund for Client Protection of the Bar of Hawaii" be updated to reflect the Fund's name. The Trustees had also requested that LF 6.2 be updated to account for the Fund's payout experiences in the years since the Rules were adopted and to allow for more flexibility in reimbursing losses to victims of attorney dishonesty to restore them to status quo.

Also effective July 1, 2008, Rule 10.10 of the Rules of the Supreme Court of the State of Hawaii ("RSCH") has been amended to require the Fund Trustees to file proof of payment by the Fund with the Hawaii Supreme Court. When a proof of payment is filed, the Hawaii Supreme Court shall, unless the interests of justice indicate otherwise, immediately suspend the attorney involved from the practice of law until the Fund receives payment for all reimbursements made by the Fund, together with interest and the Fund's costs and attorneys' fees. The suspension order may be set aside only in the interest of justice and for good cause shown. The Trustees recommended the changes to RSCH 10.10, patterned after RSCH 2.13, in order to make a public record of claim payments and to provide the attorney involved with the due process lacking in the former rule.