

DONALD E. COVEY

Lawyer

Telephone
605-842-2601

409 Main Street • P.O. Box 1766
Winner, SD 57580

September 22, 1990

Mr. Thomas C. Barnett, Jr.
Secretary-Treasurer
State Bar of South Dakota
222 East Capitol
Pierre, SD 57501

RE: Ethics Opinion 90-10

Dear Tom:

You have requested an opinion from the Ethics Committee on the following factual scenario.

FACTS

Certain recent law school graduates entered into employment with various law firms prior to their admission to the South Dakota Bar. Some of these individuals recently learned that they have not passed the South Dakota Bar exam and therefore would not be admitted to practice law in the State of South Dakota. These individuals are apparently permitted to remain in employment with their respective law firms and at the same time want to be listed on the firm's letterhead. Some of the suggestions they have made are that they be listed with a designation J.D, that they be listed as "Not Licensed in South Dakota".

OPINION

It is the opinion of the Ethics Committee of the State Bar of South Dakota that by definition these individuals are not lawyers. The American Heritage Dictionary (Second College Edition) defines a lawyer as, "one whose profession is to give legal advice and assistance to clients and represents them in court or in other legal matters." Black's Legal Dictionary defines a lawyer as one learned in the law as an attorney, counselor or solicitor. Black further defines a lawyer as a person licensed to practice law. Therefore by definition the individuals who have not been admitted to practice before any Bar in any state may not be listed as lawyers. Nor may these individuals be listed with any designation which would create confusion to the public or anyone receiving the letterhead. This would include other members of the legal profession.

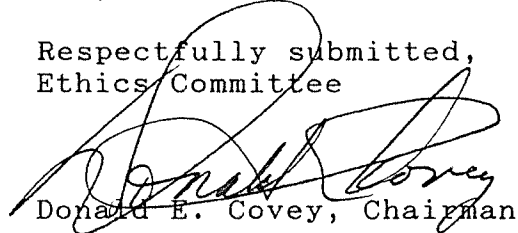
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Therefore, these individuals' names may only be included on the letterhead with a designation which distinguishes them from lawyers admitted to practice in any jurisdiction. Such designations as "Law Clerk", "Legal Assistant" or "Paralegal", are possibilities. It is the consensus of the Committee that the best practice to avoid a conflict with Rule 7.5(b) would be to not list those names on the firm's letterhead.

A designation as "J.D." is a designation which belongs to both lawyers and law school graduates alike. To list these names as "Not Admitted in South Dakota", is a negative pregnant and carries with it the connotation of a deliberate attempt at deception. Such a practice is not countenanced nor its employment entertained by this Committee.

Respectfully submitted,
Ethics Committee



Donald E. Covey, Chairman

DEC/jke

cc: Scott McGregor Michael S. McKnight
 Larry M. Von Wald Lori S. Wilbur
 William K. Sahr Prof. John Haggeman