

Nebraska Ethics Advisory Opinion for Lawyers
No. 72-6

THE INQUIRING ATTORNEY CITES DR 2-102 (A) (4) AND DR 2-102 (B) OF THE CODE OF PROFESSIONAL RESPONSIBILITY AND INFORMAL OPINION 959 OF THE ABA COMMITTEE ON PROFESSIONAL ETHICS AND INQUIRES WHETHER STATUTORY OR LOCAL CUSTOM OR OTHER LIMITATIONS IN THE STATE OF NEBRASKA PROHIBIT THE USE OF THE NAME OF A DECEASED FORMER PARTNER IN THE FIRM'S LETTERHEAD.

Reference to provisions of Canon 33 of the Canon of Professional Ethics reveals this language.

"The continued use of the name of a deceased or former partner when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through this use."

The ABA Committee on Professional Ethics has interpreted the foregoing excerpt from Canon 33 in both formal and informal opinions. In Formal Opinion 6 the Committee said:

"A law firm may continue to include in its name the name of a deceased partner if the local custom is to do so and if such practice does not result in misleading the public to believe that the deceased partner is still alive and is still a factor in the business of the firm."

To the same effect was the ruling of the Committee in Formal Opinion 208 issued November 23, 1940. Thus it is evident that prior to the adoption of the new Code of Professional Responsibility, a law firm may continue to include in its name that of a deceased partner.

The inquirer cites DR 2-102 (A) (4) and DR 2-102 (B) of the Code of Professional Responsibility. and ABA

Informal Opinion 959 issued November 25, 1966. DR 2-102 (A) (4) states, in part:

"..The letterhead of a law firm may also give the names of members and associates and names and dates relating to deceased and retiring members."..

DR 2-102 (B) contains this language:

"..and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession."

Formal Opinion 959 of the ABA Committee on Professional Ethics was issued November 25, 1966. In that opinion the following language from Canon 33 is quoted:

"The continued use of the name of a deceased or former partner, when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through the use."

We are not aware of any statutory prohibition or local custom in Nebraska which prohibits the use of the name of a deceased partner on the firm's letterhead provided such use does not mislead the public.

Nebraska Ethics Advisory Opinion for Lawyers
No. 72-6