

BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

FORMAL ETHICS OPINION 98-F-142

Inquiry is made as to whether an approved rule 31 mediator may list himself as “Approved Rule 31 Mediator” or “Tennessee Supreme Court Approved Mediator” on the attorney’s letterhead.

_____ DR 2-101(A) prohibits lawyers from using or participating in using any form of public communication containing false, fraudulent, misleading, or deceptive statements or claims.

DR 2-101(C) requires disclosures of certification and specialization with respect to each lawyer of law advertised.

Formal Ethics Opinion 93-F-131 states, “a lawyer who is engaged both in the practice of law and is an impartial arbitrator, mediator or neutral in an ADR proceeding may so indicate on his letterhead, office sign, professional card, or publication and may identify himself as a lawyer in connection with his activities as an arbitrator, mediator, or dispute resolution neutral. ...Whether performing mediation or arbitration services is to be considered a legal speciality and certified and regulated as such shall wait further clarification.”

Formal Ethics Opinion 135 states, “Lawyers have historically engaged in law-related activities by operating non-lawyer entities. Some of the law-related ventures or ancillary businesses operated, and law-related services provided, by lawyers are ... arbitration/mediation services...”

Since the attorney in this instance is an approved Rule 31 mediator, it is not false, fraudulent, misleading or deceptive to include that statement on the attorney’s letterhead. To specifically address whether the attorney may use “Approved Rule 31 Mediator” or “Tennessee Supreme Court Approved Mediator,” this opinion concludes that “Approved Rule 31 Mediator” may be misleading since it does not specifically indicate what body or

agency approved the mediator. “Rule 31 Listed Mediator” is not misleading and therefore may be used by the inquiring attorney since the Tennessee Supreme Court has promulgated standards to qualify individuals as a Rule 31 dispute resolution neutral.

This 11th day of December, 1998.

ETHICS COMMITTEE:

Larry D. Wilks, Chair

Michelle A. Benjamin

Jack W. Robinson, Sr.

ADOPTED AND APPROVED BY THE BOARD