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RE: Ethics Opinion 91-15

Dear

You have requested the advisory opinion of the Ethics Committee of the State Bar of South Dakota. I set forth the seven factual points that you list in your letter as the factual basis of the opinion.

FACTS

1. Mr. Smith and Mr. Jones are individual attorneys, each licensed to practice law in the State of Minnesota.

2. Together, Mr. Smith and Mr. Jones will provide legal services in the State of Minnesota as a Minnesota Limited Partnership, under the name of Smith & Jones, Ltd., a Minnesota Limited Partnership. This is an appropriate method of practice under Minnesota Law.

3. Smith & Jones, Ltd. would like to provide legal services in the State of South Dakota through its attorney employees licensed in the state or as co-counsel with local counsel licensed in the state.

4. The sole managing general partner will be a Minnesota professional corporation, Smith & Jones, P.A. The professional corporation will own a two (2) percent interest in the partnership.

5. Together, Mr. Smith and Mr. Jones will own all of the stock of the professional corporation. Thus, Mr. Smith will own fifty (50) percent of the stock.

6. Individually, Mr. Smith and Mr. Jones will each own forty-nine (49) percent limited partnership interest in the partnership.

7. Mr. Smith and Mr. Jones will be employees practicing law under the name of the partnership.

You make two inquiries which are as follows:

1. Will the State of South Dakota permit the Minnesota Limited Partnership to provide legal services through its South Dakota licensed attorney employees or as co-counsel to local counsel licensed under South Dakota state law?

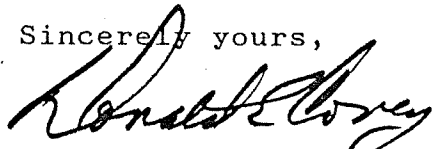
2. If so, will the South Dakota Limited Partnership Act govern the duties, liabilities and operations of the aforementioned limited partnership?

OPINION

Both questions require substantial legal analysis of the factual situations that you describe. Because of the complex nature of your request and, more importantly, the requirement that all of the legal interpretations of the South Dakota Uniform Partnership Act must be carried out before any ethical considerations can be addressed, it is the position of the Committee that your requests are first off, requests for legal advice which this Committee does not provide.

After the legal issues of your factual situation are resolved, then there may or may not be ethical considerations involved under Rule 1.8(h) dealing with an attorney attempting to limit malpractice liability; the unauthorized practice of law under Rule 5.5(b); specifically designating any jurisdictional limitations involving lawyers as expressed in the firm's letterhead under Rule 7.5; and, the division of fees between lawyers who are not in the same firm as is prohibited under Rule 1.5(e). This is not to be interpreted as an exhaustive listing of the Rules that may have application in your situation. This is merely to suggest that there are more rules that come into play as the law firm organization becomes more distant and complex from that of the solo practitioner.

Sincerely yours,



Donald E. Covey, Chairman
Ethics Committee