

ADDITIONS TO AGENDA
SOUTH DAKOTA BOARD OF ACCOUNTANCY
BOARD MEETING,
December 9, 2013

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D=Discussion
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EXECUTIVE DIRECTOR'S REPORT - Additions

Nicole Kasin

Firm Names

Tabled from our meeting in November, here is the information that I received in regards to misleading firm names when I reached out to NASBA:

Other than the Georgia AG's Opinion, the following information is a compilation of rules in various states which prohibit this type of firm name.

All of these sources generally prohibit the use of "& Associates" for solo practitioner firms.

Florida:

Rule 61H1-26.001(c) Use of the term "and Company" or "and Associates" requires at least one other fully employed Florida certified public accountant or non certified public accountant owner other than those named in the firm name; however, this rule does not preclude a Florida certified public accountant initially meeting this requirement from using the above-mentioned terms if the Florida certified public accountant subsequently does not fully employ at least one Florida certified public accountant other than those named in the firm name.

Georgia

1980 Op. Att'y Gen. Ga. 203 (July 22, 1980), 1980 Ga. AG LEXIS 97. It was misleading for a sole practitioner to use the term "and company" in a firm name.

The Georgia Attorney General was asked whether it would be misleading for a solo accounting practitioner to use the term "and company" in a firm name. The Attorney General opined that although there was some authority that the term "company" could refer to an individual, a firm name with the term "and Company" would "definitely indicate that there is more than one individual in the firm." Therefore, it would be misleading to use the term in a solo practitioner's firm name.

Kansas

Rule 74-5-406. (c)(5) A firm name or designation shall be considered to be misleading in any of the following instances ... The terms "& Company," "& Associate," or "Group" are used, but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff accountant holding both a Kansas certificate and a Kansas permit to practice.

Massachusetts

Rule 3.05(5)(b) A firm name is misleading, and thus prohibited if, among other things ... The firm name includes the designation "and Associates," "and Assoc.," "and Company," or "& Co." when there are not in fact at least two owners, or a sole proprietor or single owner CPA firm with at least one licensed full-time employee. Sole proprietors or single owner CPA firms must notify the Board, in writing, identifying

the name of the licensed full-time employee for approval of a firm name designating other than the licensee's name.

Mississippi

Rule 3.1.11(g) [NOTE: this rule no longer exists- I've just included it in case the language is useful]

If only one licensee is involved in a CPA firm practice, it cannot use the terms "and company," "and associates," abbreviations thereof, or any other term which is misleading to the general public as a part of the name. However, the term "and company" or "and associates" may be used as long as the name(s) of the employee(s) licensed by this Board are shown on the application for CPA firm registration.

Nevada

Rule 628.140(2)(e) A name of a firm is misleading or deceptive if the name of the firm ... Implies more than one principal, when there is only one shareholder, one member or one proprietor, by the use of a designation similar to "Smith & Co.," "Smith & Assoc." or "Smith Group."

North Carolina

Rule 08N.0307(b) It is misleading if a CPA firm practices under a name or style which would tend to imply the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company of more than one CPA shareholder or CPA member or an association when in fact there is no partnership nor is there more than one CPA shareholder or CPA member of a CPA firm. For example, no CPA firm having just one CPA member may have as a part of its name the words "associates," "group," "firm," or "company" or their abbreviations. It is also misleading if a CPA renders non-attest professional services through a non-CPA firm using a name that implies any non-licensees are CPAs.