

**THE PROFESSIONAL ETHICS COMMITTEE
FOR THE STATE BAR OF TEXAS
Opinion No. 630**

July 2013

QUESTION PRESENTED

Under the Texas Disciplinary Rules of Professional Conduct, may a lawyer provide to a client signed letters on the lawyer's letterhead making demands to third parties purportedly on behalf of persons who are customers of the client when the lawyer does not represent such persons?

STATEMENT OF FACTS

A lawyer represents a credit repair agency. The client credit repair agency requests the lawyer to furnish to the client letters signed by the lawyer on the lawyer's letterhead addressed to the three main credit bureaus. Each such letter asks the recipient credit bureau to remove negative credit history or furnish verification pertaining to a particular customer of the credit repair agency. The lawyer does not have any contact with the credit repair agency's customers on whose behalf the letters would be claimed to be written. The lawyer would be paid by the client credit repair agency on a per-letter basis to sign and provide the letters.

DISCUSSION

The lawyer in this fact situation would be furnishing a form letter on his letterhead making a demand on behalf of persons who are not clients of the lawyer. Since the lawyer does not represent the credit repair agency's customers, to state or imply in the lawyer's letters that the lawyer represents the customers is impermissible under Rules 4.01, 7.02, and 8.04 of the Texas Disciplinary Rules of Professional Conduct.

Rule 4.01 entitled "Truthfulness in Statements to Others," provides in full:

"In the course of representing a client a lawyer shall not knowingly:
(a) make a false statement of material fact or law to a third person; or
(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client."

Rule 7.02, entitled "Communications Concerning a Lawyer's Services," provides in pertinent part as follows:

"(a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it:

(1) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
...."

Finally, Rule 8.04(a)(3) provides that a lawyer shall not "engage in conduct involving dishonesty, fraud, deceit or misrepresentation[.]"

In the circumstances presented, the lawyer's provision of signed letters falsely stating or implying that the lawyer represents in each case a customer of the credit repair agency would involve making false and misleading statements to the recipients of the letters and thus would violate Rules 4.01, 7.02(a)(1), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

CONCLUSION

Under the Texas Disciplinary Rules of Professional Conduct, it is not permissible for a lawyer to provide to a client signed letters on the lawyer's letterhead making demands to third parties purportedly on behalf of persons who are customers of the client when the lawyer does not represent such persons.