

1105.7450 MISLEADING RAP FIRM NAMES AND FICTITIOUS RAP FIRM NAMES.

A. A RAP firm name must not be used unless the name has been registered with and approved by the board.

B. A RAP firm name is misleading within the meaning of Minnesota Statutes, section 326A.10, paragraph (h), if the RAP firm name:

(1) contains any representation that would be likely to cause a reasonable person to misunderstand or be confused about the legal form of the firm, or about who the owners or members of the firm are, such as a reference to a type of organization or abbreviation thereof which does not accurately reflect the form under which the firm is organized. This includes, but is not limited to, a name that:

(a) implies the existence of a corporation when the firm is not a corporation such as through the use of the words "corporation," "incorporated," "LTD," "professional corporation," or an abbreviation thereof as part of the firm name if the firm is not incorporated or is not a professional corporation;

(b) implies the existence of a partnership when there is not a partnership such as by use of the term "partnership" or "limited liability partnership," or the abbreviation "LLP" if the firm is not an LLP;

(c) includes the name of an individual who is not a RAP if the title "RAPs" is included in the firm name;

(d) includes the information about or indicates an association with persons who are not members of the firm;

(e) includes the terms "and company," "and associate," or "group," 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 employee; or

(f) includes the name of a person who is neither a present nor past partner, member, or shareholder of the firm;

(2) contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, through the use of a false or unjustified statement of fact as to any material matters;

(3) claims or implies the ability to influence a regulatory body or official; or

(4) includes the name of an owner whose registration has been revoked for disciplinary reasons by the board, whereby the registrant has been prohibited from using the title RAP or from practicing or holding himself out as a registered accounting practitioner.

C. The following types of RAP firm names are not misleading and are permissible so long as they do not violate Minnesota Statutes, section 326A.05:

(1) a firm that includes the names of one or more former or present owners;

(2) a firm name that excludes the names of one or more former or present owners;

(3) a firm name that uses the "RAP" title as part of the firm name when all named individuals are owners of the firm and who hold such title or are firm owners who held such title at the time they ceased to be owners of the firm; or

(4) a firm name that includes the name of a non-RAP owner if the RAP title is not part of the firm name.

D. A network firm as defined in the AICPA Code of Professional Conduct in effect July 1, 2011, may use a common brand name, or share common initials, as part of the firm name.

E. A network firm, as defined in the AICPA Code of Professional Conduct in effect July 1, 2011, may use the network name as the firm's name provided it also shares one or more of the following characteristics with other firms in the network:

(1) common control, as defined by generally accepted accounting principles in the United States among the firms through ownership, management, or other means;

(2) profits or costs, excluding costs of operating the association, costs of developing audit methodologies, manuals and training courses, and other costs that are immaterial to the firm;

(3) a common business strategy that involves ongoing collaboration among the firms whereby the firms are responsible for implementing the association's strategy and are held accountable for performance pursuant to the strategy;

(4) a significant portion of professional resources; or

(5) common quality control policies and procedures that participating firms are required to implement and that are monitored by the association.

F. The firm name shall not include the name of a person who was a past partner, member, shareholder, or owner of the firm if the person withdraws consent to the inclusion or if the person becomes a partner, member, shareholder, or owner of a firm established under part 1105.7100.

G. A fictitious RAP firm name, that is, one not consisting of the names or initials of one or more present or former partners, members, or shareholders, may not be used by a RAP firm unless the name has been registered with and approved by the board as not being false or misleading.

A firm name is considered false or misleading if:

(1) it is not the lawful and registered name of the firm;

(2) the name contains or fairly implies a misrepresentation of facts;

(3) the name indicates character or grade of service that is not based upon verifiable facts;

(4) the name is likely to mislead or deceive because it omits relevant facts. The following are examples, but are not inclusive:

(a) the name indicates a geographic area of service which is not based on verifiable facts; or

(b) the firm name includes a nonowner firm employee or the name or initials of any other nonowner, except as permitted in Minnesota Statutes, section 326A.10, paragraph (h);

(5) the name is intended or likely to create false or unjustified expectations of favorable results;

(6) the name implies special expertise;

(7) the name implies educational or professional attainment or licensing recognition of the firm or of its owners, partners, or shareholders that are not supported in fact;

(8) the name of the firm that is incorporated does not include the words "corporation," "incorporated," "Ltd," "professional corporation," or "company," or an abbreviation thereof as part of the firm name and the name of a firm organized under the limited liability partnership statute does not include the words "limited liability company" or "limited liability partnership," as appropriate, or an abbreviation thereof, as part of the firm name;

(9) the name includes the designation "and company," "company," "group," "associates," or "and associates," or abbreviations thereof or similar names implying more than one employed registrant in the firm, unless there are at least two registrants involved full time in the practice;

(10) the name of a firm that is a partnership or professional corporation fails to contain the personal name or names of one or more individuals presently or previously a partner, officer, or shareholder thereof, except that an acronym may be used for a firm name if the acronym is composed exclusively of the first letters of the surnames of current or past partners or shareholders of the firm;

(11) the name of a firm that is a sole proprietorship fails to contain the surname of the sole proprietor;

(12) the name contains other representations or implications that are likely to cause an ordinarily prudent person to misunderstand or to be deceived; or

(13) the name includes the name of an individual whose registration has been suspended or revoked by the board.

Statutory Authority: *MS s 326.18; 326A.02*

History: *27 SR 1425; 28 SR 1636; 30 SR 422; 33 SR 476; 38 SR 1367; 42 SR 736*

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