



## NEW JERSEY STATE BAR ASSOCIATION

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February 17, 2022

Hon. Jeffrey R. Jablonski, A.J.S.C.  
New Jersey Superior Court, Hudson County  
Hudson County Administration Building  
595 Newark Ave., 9th floor  
Jersey City, NJ 07306

Re: *In re Opinion No. 735 of the Supreme Court Advisory Committee on Professional Ethics* / Docket No. 083396

Dear Judge Jablonski:

Please accept this letter as a follow-up to the Court's Oct. 1, 2021 Order appointing you as a Special Master in the above referenced matter. The Order invited the parties in the case to submit proposed changes to the Rules of Professional Conduct (RPCs) to address situations where a lawyer purchases a competitor lawyer's name as a keyword for a search term in purchasing advertising from an internet search engine.

The NJSBA filed a Petition for Review in this matter following the Advisory Committee on Professional Ethics' issuance of Opinion 735 because it believes the RPCs already address the practice at issue and prohibit it. The NJSBA contends that the purchase of another attorney's name for advertising use in connection with an internet search permits the purchasing attorney to improperly capitalize on the good will and reputation of the attorney whose name was purchased. In directing consumers away from the attorney for whom they are searching, the advertising practice is misleading, misrepresentative, and potentially fraudulent.

Since RPC 8.4 (c) already prohibits conduct involving dishonesty, fraud, deceit or misrepresentation, the NJSBA does not believe any further change to the RPCs is needed to address the conduct at question. In an effort to clarify any misinterpretation of the Rules as related to the purchase of internet advertising, however, the NJSBA recommends an explicit comment be added to RPC 8.4 instead of changes to the language in the Rule itself. The NJSBA proposes the following language:

It is a violation of RPC 8.4(c), representing dishonesty, fraud, deceit, or misrepresentation, for a lawyer to purchase another lawyer or law firm's name as a keyword search term from internet search engines to use in the lawyer's own keyword advertising. The purchase of the recognition and reputation associated with a lawyer's name or law firm's name to direct consumers to another lawyer's website is neither fair nor straightforward and is misleading.

Thank you for your consideration. The NJSBA is prepared to provide any additional information that may inform your review of the issues in this matter.

Respectfully,

A handwritten signature in cursive script, reading "Domenick Carmagnola". The signature is written in black ink and is positioned above a horizontal line.

Domenick A. Carmagnola, Esq.  
President

cc: Donna Arons, Esq., Assistant Attorney General of New Jersey  
Andrew J. Cevasco, Esq.  
Thomas Loikith, Esq.  
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