

BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

ADVISORY ETHICS OPINION 2006-A-841
(NOT FOR PUBLICATION)

Inquiry is made regarding whether a lawyer or law firm may advertise a lawyer's selection within listings or publications such as "Super Lawyers" or "Best Lawyers in America."

The Board has addressed this general issue in Formal Ethics Opinion 2004-F-149, which provided guidance to the bar regarding what types of claims or representations are considered false or misleading in violation of Tennessee Rule of Professional Conduct 7.1. In that opinion, the Board concluded that:

...[t]he use of subjective characterizations or descriptions conferred by organizations may be permissible if the organization has made inquiry into the lawyer's fitness and does not issue or confer such characterizations indiscriminately or for a price. Peel v. Attorney Registration and Disciplinary Commission of Illinois, 496 U.S. 91, 102, 110 S.Ct. 2281, 2288, 110 L.Ed.2d 83 (1990); Mason v. Florida Bar, 208 F.3d 952, 957 ftnt.3 (11th Cir. 2000)...


Based on the information which has been reviewed regarding the selection methodology of both of the captioned publications, we are unable to conclude that their selection methodologies are indiscriminate, or that lawyers are conferred such designations for a price.

Accordingly, law firms and lawyers are permitted to advertise the facts that certain lawyers have been selected by and listed within the above publications, as long as the lawyers do not go further and refer to themselves subjectively as "super" or "the best" on the basis of such designations contained within these publications.

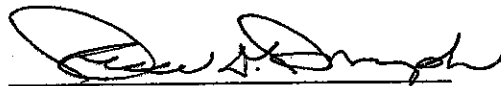
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Pursuant to Rule 9, Section 26.5(c), this opinion is not binding on the Court, the Board or the Ethics Committee and offers no security.

This 21 day of September, 2006.



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