Report on a Case by the Board of Ethical Review

Case No. 62-14

Disbarment from Another Profession

Facts:
A professional engineer who is admitted to practice before the United States Patent Office as a patent agent was disbarred by the Commissioner of Patents for violation of a rule of the Patent Office prohibiting advertising to solicit patent business. The advertisements stated, in part, that the patent agent was a licensed professional engineer and that his services included the performance of "necessary Patent Development Engineering." The disbarment order was upheld on appeal by a Federal Court of Appeals.

Question:
Is it unethical for a professional engineer to violate laws, rules or regulations governing his conduct in a different, but related, area of professional practice?

References:
Canons of Ethics-Canon 2-"He will not advertise his work or merit in a self-laudatory manner and he will avoid all conduct or practice likely to discredit or do injury to the dignity and honor of his profession."

Rules of Professional Conduct-Rule 5-"Circumspect advertising may be properly employed by the engineer to announce his practice and availability. The form and manner of such advertising shall satisfy in all respects the dictate and intent of the Canons. Only those media shall be used as are necessary to reach directly an interested and potential client or employer, and such media shall in themselves be dignified, reputable and characteristically free of any factor or circumstance that would bring disrepute to the profession or to the professional using them. The substance of such advertising shall be limited to fact and shall contain, no statement or offer intended to discredit or displace another engineer, either specifically or by implication."

Discussion:
The most direct reference to this question is found in the Engineers' Creed, which, while we cannot base our opinion upon it because it is not a part of the Canons or Rules, is pertinent to the philosophical point: "I pledge ... to live and work according to the laws of man and the highest standards of professional conduct."

The Canons and Rules permit professional engineers to advertise their services under certain restricted conditions, but this right does not carry with it any authority to do so in other areas of practice which by law or regulation prohibit advertising. It is not within our jurisdiction to determine whether such prohibitions are necessary or wise; they do exist as a matter of law and the professional engineer is ethically (as well as legally) bound to adhere to the laws governing all his conduct. If the prohibition on advertising is felt to be

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unwarranted and undesirable the only appropriate course of action is to seek its repeal or modification through forums of appropriate jurisdiction. It seems to us beyond argument that we must adhere to all laws, not just those of which we approve.

By violating a law or regulation which has the forces of law, the engineer offends the requirement of Canon 2 that he avoid all conduct or practice likely to discredit or do injury to the dignity and honor of his profession. We do not consider at this time whether this application would hold if the violation pertained to conduct not related to engineering practice. But the facts show that in this case there was a direct reference to engineering practice. Therefore, the disbarment reflected upon other engineers and the profession generally.

Conclusion:
It is a violation of the Canons of Ethics for a professional engineer engaged in an area of practice related to engineering to violate a law or regulation having the force of law.

Board of Ethical Review: P. T. ELLIOTT, P.E. P. G. ELLIS, P.E. A. C. KIRKWOOD, P.E. W. S. NELSON, P.E. M. C. NICHOLS, P.E. E. K. NICHOLSON, P.E. L. R. DURKEE, P.E., CHAIRMAN

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