Report on a Case by the Board of Ethical Review

Case No. 67-4

Publication of Combined Directory of Firms and Fee Guide

Facts:
The private practice section of a state society of professional engineers, affiliated with NSPE, published a combined directory of engineering firms in the state which are sustaining firms of the private practice section, and a fee guide, including explanatory material on procedures for the selection of engineers, types of services provided by consulting engineers, and similar information. The fee guide portion of the publication included a "Chart Indicating Range of Compensation for Professional Services."

The directory portion of the publication contained an alphabetical listing of firms, followed by a list of firms by cities. Approximately 11 firms were shown on each page, including in addition to the name of the firm, the address, telephone number, principal contact, specialties, number of professional engineers and registered architects, and general number of employees of each firm. The listing of firms was limited to those firms which are members of the private practice section of the state society. The publication was approved by the state society's board of directors, and was identified as having been prepared and published by the private practice section of the state society.

Sustaining firm membership in the private practice section is open to "bona fide engineering or architect-engineering organizations having their principal place of business in the state, and of which a principal, partner or owner shall be a member in good standing of the state society." Membership is also available to out-of-state engineering or architect-engineering organizations having a permanent office in the state.

The directory was distributed without charge to all consulting engineering firms in the state and to a comprehensive list of elected and appointed federal, state, county, and city officials whose responsibilities include or may include selection and compensation of consulting engineers. Additional copies were made available to all consulting engineering firms at a nominal cost.

Objection has been made to the directory on grounds that it is unethical because it does not include all consulting engineering firms in the state and is therefore misleading.

Question:
Is the publication and distribution of a directory as described in accordance with the Code of Ethics?

References:

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Code of Ethics-Section 3(d)- "He will not use his professional affiliations or public office to secure personal advantage and will avoid any act tending to promote his own interest at the expense of the dignity and standing of the profession."

Section 4-"The Engineer will endeavor to extend public knowledge and appreciation of engineering and its achievements and to protect the engineering profession from misrepresentation and misunderstanding."

Section 9-"The Engineer will uphold the principle of appropriate and adequate compensation for those engaged in engineering work."

Section 12-"The Engineer will not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, or practice of another engineer, nor will he indiscriminately criticize another engineer's work in public. If he believes that another engineer is guilty of unethical or illegal practice, he shall present such information to the proper authority for action."

Discussion:

As we have previously held, the Code of Ethics applies only to individuals and not to organizations (Cases No. 60-4, 61-6). We, therefore, treat this case as raising the question of the ethical position of the engineers who prepared the directory or authorized its distribution.

The preparation and distribution of state recommended fee schedules is a well-recognized and accepted practice. Similarly, it is common practice for organizations of engineers to prepare and distribute material on proper methods of selection of engineers, methods of compensation, types of services provided, and similar information. Such activities are to be lauded and are consistent with the spirit of Section 4 of the Code, calling for extending public knowledge and appreciation of engineering, and Section 9, requiring the engineer to uphold the principle of appropriate and adequate compensation.

The objection which has been raised on ethical grounds is that the directory, by not including all qualified consulting engineering firms in the state may have the effect of indicating to the public and to public officials particularly that only those firms listed are considered qualified by the state society or its private practice section. Section 3(d) forbids the use of a professional affiliation to secure personal advantage, and Section 12 prohibits any action whereby one engineer attempts to injure the professional reputation, prospects, or practice of another engineer.

We do not think that either of these mandates has been violated by the issuance of a directory of the type described. There is no indication that the directory made any adverse comment on the firms not listed in it, nor did it state directly or by inference that only those firms listed were considered reputable by the state society or its private

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practice section. It did state the directory listed only those who are members of the private practice section.

It is possible that some recipients or users of the directory might come to their own conclusion that only the firms listed were "recognized" by the state society. So long as membership is available to all reputable and qualified firms, however, we cannot say that the format of the directory was intended to or did contain such an inference. It is well recognized that many organizations publish directories of their membership and it is indeed a novel theory that there is an ethical duty to include those who are not members of the organization.

The fact that the directory contained both a listing of members and a recommended compensation schedule does not affect our analysis. This is also common practice and we see nothing in the Code which states or implies that otherwise desirable information must be published separately.

Although we conclude that the directory was in accordance with the Code of Ethics, it may not be amiss to suggest, inasmuch as the question has been raised, that it might be desirable in future editions of the directory to indicate in prominent type that the directory does not purport to indicate that other firms in the state may not also be qualified and reputable.

Conclusion:
A directory of the type described is in accord with the Code of Ethics.

BOARD OF ETHICAL REVIEW: T.C. Cooke, P.E., C.C. Hallvik, P. E, James Hallett, P.E., N.O. Saulter, P.E., Sherman Smith, P.E., Kurt F. Wendt, P.E., Waldemar S. Nelson, P.E., Chairman.

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