Report on a Case by the Board of Ethical Review

Case No. 67-9

Engineers' Endorsement of Contractors

Facts:
A state association of contractors engaged in a particular phase of construction inserted full page advertisements in trade magazines, which are headed as follows:

"Consulting Engineers Say: Pre qualify Your Contractor"

"Why (blank) County Requires Prequalified Contractors"

"Why (blank) Associates Require Prequalified Contractors"

The theme of all the advertisements is that prequalification of contractors results in saving of money and time, as distinguished from the use of low bidders who may not be qualified to perform the work in a satisfactory manner. Each advertisement contains the statement: "These (name of association) member contractors are all prequalified by the (state) Department of Highways and guarantee you the highest standards of workmanship."

The advertisements list the members of the state association, and there are pictures and names of consulting engineers in two cases and a picture and name of a county engineer in another case.

Question:
Are the engineers identified in the advertisements in conflict with the Code of Ethics?

References:
Code of Ethics-Section 3-"The Engineer will not advertise his work or merit in a self-laudatory manner, and will avoid all conduct or practice likely to discredit or unfavorably reflect upon the dignity or honor of the profession." Section 10(a) "He will not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product."

Discussion:
We dealt with a similar problem in Case 65-1, in which it was concluded that it was not ethical for an engineer to authorize the use of his name in certain commercial advertisements. At that time, we commented:

> ". . associating the name of an engineer in independent practice with a particular product or service is contrary to the best interests of the profession by virtue of the fact that the reader of the advertisement can hardly escape the impression

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that the engineer is endorsing the particular product or service over those of competitors."

The same conclusion applies to the facts before us, even though there are certain differences of circumstances. Although no particular product is involved, as such, the implied endorsement of the engineers runs to the benefit of contractors who are named in the advertisement.

We offer no opinion as to the merits of prequalification of contractors, but we do conclude that the use of the engineers' names in the manner indicated cannot help but result in an impression that those contractors who are listed as prequalified are preferred by the engineers. This objection might not apply if the names of the contractors were not included and the statement by the engineers was merely an endorsement of the principle of prequalification of contractors.

The only additional important difference between this case and Case No. 65-1 is that one of the engineers is not in private practice. We believe that this difference is of no consequence from an ethical standpoint. In some respects the endorsement of a county engineer is more objectionable because by virtue of his public office he may have more influence in the selection of a contractor for public work. It is particularly important that an engineer in public office not intimate in any manner a preference for particular contractors over their competitors. He may properly espouse the cause of prequalification, but not m such a way as to leave the impression that certain contractors have an advantage over others.

For the purpose of this case we assume that the engineers knew of and gave permission for the use of their names and photographs.

Conclusion*
The engineers identified with the advertisements were in conflict with the Code of Ethics.

***Note**-This opinion is based on data submitted to the Board of Ethical Review and does not necessarily represent all of the pertinent facts when applied to a specific case. This opinion is for educational purposes only and should not be construed as expressing any opinion on the ethics of specific individuals. This opinion may be reprinted without further permission, provided that this statement is included before or after the text of the case.

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