Report on a Case by the Board of Ethical Review

Case No. 70-1

Promotional Distribution Of Planning Report

Facts:
A consulting engineering firm prepared a comprehensive water and sewer plan for a county government and distributed copies of the full report with a pamphlet of the firm to a number of potential governmental clients and to the libraries of nearby state universities. Also, the firm presented an oral summary of the report at a meeting of local governmental officials. During the presentation representatives of the firm spent considerable time calling attention to the potential engineering services which were available to other governmental bodies represented at the meeting.

The pamphlet which accompanied copies of the report listed the services performed by the firm, included the names of principal engineers and department heads of the firm, and contained a coupon form for potential clients to complete and return to the firm, headed, "Yes, we need your services in the area checked." The back page of the pamphlet contained the statement, "We would appreciate the opportunity and privilege to discuss with you services and engineering fees relative to any project you may have in the engineering field. Check the services which are of interest to you. Then place this brochure in an envelope and send it to us."

Questions:
Q.1 Is it ethical to promote the interests of the firm through verbal offer of engineering services at a meeting of this type?

Q.2 Is it ethical to distribute a planning report and pamphlet for promotional purposes in the manner stated?

Reference:
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.

"a. Circumspect advertising may be properly employed by the Engineer to announce his practice and availability under the following conditions:

"1) Professional cards in recognized, dignified publications and listings in rosters or directories published by responsible organizations are acceptable forms, provided that the cards or listings are consistent in size and content, not in excess of one-quarter page, and are in a section of the publication regularly devoted to such professional cards. Information given must be restricted to firm name, address, telephone number,

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names of principal participants, and the fields of practice in which the firm is qualified. A dignified symbol or art work representative of the firm's practice may be used.

"2) Identification of the firm name, address, and telephone number on vehicles and equipment together with services related thereto.

"3) Brochures and other factual representations of experience, facilities, personnel, and capacity to render service, providing they are not misleading with respect to the Engineer's direct participation in the projects described.

"4) A statement of his name or the name of his firm and statement of his type of service may be posted on projects for which he renders services.

"b. An Engineer may prepare descriptive articles for the lay or technical press which are factual, dignified, and free from ostentations or laudatory implications. Such articles shall not imply other than his direct participation in the work described unless credit is given others for their share of the work.

"c. Permission may be given by an Engineer for his name to be used in commercial advertisements, such as may be published by contractors, material suppliers, and so forth, only by means of a modest dignified notation acknowledging the Engineer's participation and the scope thereof in the project described.

"d. Telephone listings shall be limited to name, address, and telephone number either under or with each branch listing in which he qualifies.

"e. He will not allow himself to be listed for employment using exaggerated statements of his qualifications.

"f. 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."

Discussion:
We are not in a position to dispose of this case on the basis of its relationship to the general question of advertising of engineering services. The policy question and the appropriate wording of Section 3 of the code on the general advertising question are under review by the NSPE Ethical Practices Committee by action of the NSPE Board of Directors in January, 1970, including a directive to the committee to attempt to bring about unified codes of ethics on the subject of advertising with other engineering societies.

The case before us, however, can be treated without reference to the general advertising question. Section 3(a)(3) of the code follows a fairly consistent pattern in

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previous editions of the code and in the codes of ethics of other societies and presumably its principles will not be affected by the current study.

We may logically assume that the meeting of the government officials was called to hear an explanation of the planning report. We believe that the firm improperly capitalized on its position in going beyond that purpose by using such a forum to solicit new clients. This action was not compatible with Section 3 of the code.

Taken in context, Section 3 (a) (3) recognizes the propriety of brochures to indicate to clients and prospective clients the background, experience, and qualifications of the firm and are not considered in that usage to be advertising material or to be used for advertising purposes. In Case 62-2 we held under the then-prevailing Rule of Professional Conduct (which then implemented the Canons of Ethics) that it was permissible to use a brochure to solicit engineering assignments. That decision, however, followed the then-existing rule which permitted advertising for engineering services generally and specifically permitted the use of brochures to solicit engineering assignments.

In the case before us the pamphlet which accompanied the planning report, though called a "brochure," was more nearly a promotional pamphlet intended to advise prospective clients of the types of services available from the firm and to solicit expressions of interest from prospective clients in those areas. Whether such a pamphlet is permissible cannot be determined until the wording of the code on the general advertising question is resolved.

We believe that the distribution of the planning report for purposes of presenting the technical information therein to persons or organizations having a reasonable need to know of the report is proper. However, the inclusion of the promotional pamphlet raises a sufficient doubt to warrant the conclusion that this method of soliciting engineering assignments is ". . . conduct or practice likely to discredit or unfavorably reflect upon the dignity or honor of the profession." The firm might properly send a copy of the planning report to prospective clients interested in the same type of service in order to indicate the nature of the services involved, but such reports should not be used for general promotional purposes.

We reserve judgment on the promotional pamphlet itself pending clarification of the code on the advertising question, but if items 1 through 4 of Section 3(a) and Sections 3(b) through 3(f) are intended to indicate the limited means which may be employed for promotional purposes, as we believe they are so intended, it would follow that a pamphlet of the type indicated is not permissible.

Conclusion*:

Q.1. It is not ethical to promote the interests of the firm through verbal offer of engineering services at a meeting of this type.

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Q.2. It is not ethical to distribute a planning report coupled with the type of pamphlet described for promotional purposes in the manner stated.

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