Report on a Case by the Board of Ethical Review

Case No. 72-8

Advertising - Distribution of Laudatory Article

Facts:
A local newspaper prepared and printed a lengthy article on the history, activities, and recent projects of a well-known consulting engineering firm in the area of the newspaper's circulation. The article noted the role played by the firm over the years in the development of numerous important public works. It was factual and restrained in tone without laudatory or ostentatious references to the firm, although it emphasized that certain projects designed by the firm had been of great importance and value to the public. Subsequently, the firm secured reprints of the article and proposed to mail copies of the article to past, present, and potential clients with a short note from one of the partners to a designated individual personally known to him, stating, "I thought this reprint from the (date) issue of the (name of newspaper) would be of interest to you."

Question:
Would the distribution of the article by the partners of the firm be in conflict with the Code of Ethics?

References:
Code of Ethics Section 3(a)-"The Engineer shall not advertise his professional services but may utilize the following means of identification:

1. Professional cards and listings in recognized and dignified publications, provided they are consistent in size and are in a section of the publication regularly devoted to such professional cards and listings. The information displayed must be restricted to firm name, address, telephone number, appropriate symbol, name of principal participants, and the fields of practice in which the firm is qualified.

2. Signs on equipment, offices, and at the site of projects for which he renders services, limited to firm name, address, telephone number, and type of services, as appropriate."

3. Brochures, business cards, letterheads, and other factual representations of experience, facilities, personnel, and capacity to render service, providing the same are not misleading relative to the extent of participation in the projects cited, and provided the same are not indiscriminately distributed.

4. Listings in the classified section of telephone directories, limited to name, address, telephone number, and specialties in which the firm is qualified.

Section 3(c)-"The Engineer may prepare articles for the lay or technical press which are factual, dignified, and free from ostentations or laudatory implications. Such articles shall

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not imply other than his direct participation in the work described unless credit is given to others for their share of the work."

Discussion:
Our previous opinions on advertising since the code was amended in January 1971 to establish the "no advertising" concept have dealt with recruiting advertising (Case 71-8), use of brochures (Case 71-11), use of bold face type in telephone directories (Case 72-1), and direct mail solicitation (Case 72- 3). In each of these cases the questions raised have involved actions of engineers in creating and utilizing promotional material in some form. In the case before us, however, the firm did not create the article it proposes to distribute; rather it proposes to use the article developed by others for its own purposes. We note in passing, however, that Section 3(c) of the code does not bar all articles by an engineer; it permits articles prepared by him or the firm which are factual, dignified, and free from ostentations or laudatory implications. The code is silent regarding articles about an engineer or a firm prepared by others, but the concept of Section 3(c) would indicate that the same criteria should apply to articles prepared by other than the engineer or his firm in terms of its utilization by the engineer or the firm.

We assume that the author of the article turned to the firm for assistance in its preparation in terms of history and experience of the firm and data on its recent projects as described in the article. If so, we find no objection to the firm providing such information so long as the information provided conforms to the criteria stated in Section 3(c) of the code. We dealt with this point in Case 66- 9, in which it was stated:

"We perceive no objection to the engineering firm supplying material for the special section in the form of articles, reports, or pictures to indicate the activities of the firm. These, in fact, will support the purpose of the special section in demonstrating to the public the manner in which engineers provide services for the public weal. It is obvious, of course, that such material furnished by the engineering firm must in all respects satisfy the mandate of the code with regard to self-laudation and adherence to fact. The code does not, however, prevent the firm from being identified in the stories or in captions of pictures with particular projects of public interest."

We turn, then, to the central question in this case; whether the firm which is the subject of the article may now use it for its own purposes on the basis stated? The article is too lengthy to set out in full or even by the use of representative abstracts. In general, the reader of the article would tend to perceive that the firm in question was of unquestioned ability, with extensive experience and dedication to the design and development of projects serving vital public needs. In short, the reader would be led to a favorable reaction regarding the firm in question. When Section 3(c) proscribes articles which are ostentatious or laudatory it contemplates articles prepared by the engineer. But, as indicated earlier, if an article prepared by others with the assistance of engineers is ostentatious or laudatory as to the engineer or firm who assisted in its preparation by providing material or other assistance, we would apply the same criteria to its future use for promotional purposes.

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There can be little question but that the primary purpose in sending reprints of the article is to create a favorable impression. The controlling factors in this case are the content of the article and the fact that the recipients are personally known to the sender.

While self-laudatory promotional activity through advertising is closed to the engineer under the code, he is not enjoined from informing the public of his work in a proper manner. The distribution of the article will carry out that purpose, and the "low-key" method of distribution by the firm would not be inconsistent with Section 3(a)(3) of the code.

Conclusion*:
The distribution of the article by the partners of the firm as described above would not be in conflict with the Code of Ethics.

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