Note: "This case has been revoked and is posted solely for historic purposes. Does not reflect NSPE positions, policies, or procedures."

Report on a Case by the Board of Ethical Review

Case No. 84-2

Advertising Services of Engineering Staff

Facts:
Smith & Jones, Inc., is an engineering and construction company. It carries an advertisement in various magazines with a heading, "RENT-AN-ENGINEER". The text of the advertisement explains that Smith & Jones, Inc., offers its surplus engineering capacity on a rental basis, claiming that those using the services of such engineers benefit from having the services of experienced engineering personnel without increasing the permanent work force of the employer who utilizes the offer of Smith & Jones, Inc. The advertisement then lists various engineering disciplines which are available for rental and invites inquiries for details of its "Rent-an-Engineer Plan."

Question:
Is the advertisement of Smith & Jones, Inc., a violation of the Code of Ethics?

References:
Code of Ethics - Section III.3. - "Engineers shall avoid all conduct or practice which is likely to discredit the profession or deceive the public."

Section III.3.a. "Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep statements from being misleading; statements intended or likely to create an unjustified expectation; statements containing prediction of future success; statements containing an opinion as to the quality of the Engineers' services; or statements intended or likely to attract clients by the use of showmanship, puffery, or self-laudation, including the use of slogans, jingles, or sensational language or format."

Discussion:
The "Rent-an-Engineer Plan" appears on the surface to be more a "job shop" operation than one that would be conducted by a firm engaged in normal engineering and construction operations. As set forth in BER Case 83-4, job shops are essentially employment referral agencies which list engineers and other technical personnel for temporary employment by others, taking a fee for their services. Such operations are well known in the technical world and are often employed by companies in need of temporary technical help.

REVOKED

In this case we are not concerned with the pros or cons of job shops, as such. Rather, we are called upon to evaluate the wording and tenor of the advertisement in light of the restrictions on advertising in Section III.3.a. of the Code of Ethics. For the purposes of this case, we assume that Smith & Jones, Inc., is owned or operated by engineers who are subject to the Code.

Both in language and in spirit the advertisement is ethically offensive. By reference to the "renting" of engineers it treats engineers as if they were the same as some kind of machinery or an inanimate object.

While the Code restrictions on advertising have been loosened to a degree in recent years on the basis of Supreme Court decisions barring a total ban on advertising of professional services, some restrictions are still allowed as reflected in the present Code language. Recently, the Chief Justice of the United States, speaking to the spread of advertising for legal services, commented on "the novel spectacle of lawyers advertising in newspapers, on radio, and on television in much the way that automobiles, dog food, cosmetics, and hair tonic are touted." The Chief Justice added that while the Supreme Court has said that attorneys (and by implication all of the professions) have a First Amendment right to advertise, "The very nature of a profession, as distinguished from the marketplace, is that standards of professional conduct are proscribed to protect the public. The standards have grown up slowly and painfully for centuries. Codes of professional conduct take for granted that lawyers will not exercise every constitutional right to its outer limits if to do so conflicts with higher professional standards."

REVOKED

We think that the statement of the Chief Justice exactly fits this case. Taken in the light of the wording of the Code of Ethics, the advertisement is intended to attract business by the use of showmanship and by use of what amounts to slogans and sensational language. It reflects adversely on the status and standing of the engineering profession by treating the members of that profession as a commodity and to that extent is conduct likely to discredit the profession under Section III.3. It is an example of "showmanship" for self-interest.

Aside from the merits of offering to "sell" the services of its engineering staff to others, there is no reason that Smith & Jones, Inc., could not make its offer on a dignified and ethically acceptable basis by a less flamboyant and offensive style of presentation.

Conclusion:
The advertisement of Smith & Jones, Inc., is a violation of 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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