

Report on a Case by the Board of Ethical Review

Case No. 62-2

Subject:

Advertising of Engineering Services-Brochure

Canon 2-Canons of Ethics Rule 5-Rules of Professional Conduct Rule 7-Rules of Professional Conduct Rule 50Rules of Professional Conduct

Facts:

A brochure, 8-1/2" x 8-1/2" and folded once to make four surfaces 4i4" x 81/2", announced the availability of a registered engineer for consultation on the design of blast and fallout shelters. The brochure was distributed to a large group of individuals and representatives of firms who had attended Government-sponsored meetings in connection with shelter design.

It was printed on good quality paper; the first page of the four-page brochure gave the engineer's name, his trademark, and listed the various phases involved in personnel shelter design.

The second page read as follows: "Planning for blast and/or fallout protection"

The Need . . . Prudent business and industrial managements recognize and accept responsibility for protecting their personnel against blast and/or radioactive fallout in event of nuclear attack-particularly when their organizations are contemplating new plants, warehouses, laboratories, offices, or other facilities.

The Problem . . . Because they have received inadequate or inaccurate information on shelter requirements many companies have not taken into consideration blast or fallout shelter protection in their planning. Others who have made substantial investments have found that their shelters fail to meet their own requirements, or to conform with the Government's plans for integrated protection. The problem is to know what protection to provide, and how to provide it practically and economically.

The Solution . . . The solution to the problem of providing adequate protection at minimum cost is a detailed plan developed in cooperation with architects and engineers, and under the guidance of a qualified shelter authority. Since 19-, John Doe has devoted all his time to the techniques and application of effective, economical blast and/or fallout shelter. He is thoroughly familiar with the Government's present shelter program as well as with projected thinking. He knows the technical requirements for adequate protection under varying circumstances, and he has broad practical experience in planning the design, construction and stocking of shelters."

The third page consisted of a list, in detail, of the studies made by the engineer, articles published by the engineer, national committee service and finally, the engineer's professional affiliations.

The fourth, and last, page gave a partial list of the clients served by the engineer, his home address and telephone number, and repeated his trademark.

Questions:

Q1. Is this brochure ethical?

Q2. Is it ethical to distribute a brochure by the method indicated?

References:

Canons of Ethics-Canon 2-"He will not advertise his work or merit in a self-laudatory manner and he will avoid all conduct or practice likely to discredit or do injury to the dignity and honor of his profession."

Rules of Professional Conduct-Rule 5-"Circumspect advertising may be properly employed by the engineer to announce his practice and availability. The form and manner of such advertising shall satisfy in all respects the dictate and intent of the Canons. Only those media shall be used as are necessary to reach directly an interested and potential client or employer, and such media shall in themselves be dignified, reputable and characteristically free of any factor or circumstance that would bring disrepute to the profession or to the professional using them. The substance of such advertising shall be limited to fact and shall contain no statement or offer intended to discredit or displace another engineer, either specifically or by implication."

Rule 7-"He will not allow himself to be listed for employment using exaggerated statements of his qualifications."

Rule 50- (First paragraph) -"It shall be considered ethical for an engineer to solicit an engineering assignment, either verbally or written. Such solicitation may be in the form of a letter or a brochure setting forth factual information concerning the engineer's qualifications by training and experience and reference to past accomplishments and clients."

Discussion:

The content and distribution of the brochure constituted advertising.

Rule 50 specifically gives an engineer the right to send a brochure to prospective clients to solicit engineering assignments, provided the brochure does not contain statements which transgress the general or specific limitations described in Canon 2 and Rules 5 and 7. The Canons and Rules do not prohibit the use of a trademark, provided it is in good taste, circumspect, dignified, and not self-laudatory.

The paragraphs on page two are statements of opinion, not limited to facts as required by Rule 5. In addition, the last paragraph of the quoted material is self-laudatory and violates Canon 2.

The text on pages three and four describes the engineer's experience and accomplishments in a factual way devoid of self-laudatory tones.

Regarding distribution of the brochure, Rule 50 authorizes the use of a brochure to solicit engineering assignments. Rule 5 limits the distribution to interested and potential clients. In this case, those receiving the brochure had indicated their interest by attending the meeting. It may be reasonably concluded that they were, therefore, potential clients.

Conclusions:

Q 1. The brochure is unethical because it contains self-laudatory statements and is not limited to fact.

Q 2. Providing the content of a brochure is ethical, it is ethical to distribute it by the method indicated.

BOARD OF ETHICAL REVIEW PIERCE G. ELLIS, P.E. PHIL T. ELLIOTT, P.E. A. C. KIRKWOOD, P.E. W. S. NELSON, P.E. M. C. NICHOLS, P.E. E. K. NICHOLSON, P. E. L. R. DURKEE, P.E., Chairman

Note: Member Nichols agrees with the conclusion as to question 1. He disagrees with the conclusion as to question 2 believing that the engineer acted unethically in mailing the brochure to all persons who attended the meeting. Mere presence of a person at the meeting does not indicate an interest sufficient to warrant the conclusion that he was a potential client. Member Nichols believes the distribution of the brochure in the manner stated was likely to discredit and do injury to the dignity and honor of the profession and therefore was in violation of Canon 2.