Note: “This case has been revoked and is posted solely for historic purposes.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.
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."

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
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