

## **Advertising—Omitting Geographic Address**

Case No. 16-6

### **Facts:**

Engineer A is a professional engineer licensed in state X and is a sole practitioner with no employees. His professional business card lists his name, company name, e-mail address, phone number, and website, but does not list any geographic address or the state(s) in which he is licensed. He distributes his professional business card to a potential client in state X.

### **Question:**

Is it unethical for Engineer A to not include a geographic address or the state(s) in which he is licensed on his business card?

### **NSPE Code of Ethics References:**

- Section I.5. - Engineers, in the fulfillment of their professional duties, shall avoid deceptive acts.*
- Section II.5.a. - Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.*
- Section III.3. - Engineers shall avoid all conduct or practice that deceives the public.*
- Section III.3.a. - Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.*
- Section III.8.a. - Engineers shall conform with state registration laws in the practice of engineering.*

**NSPE BER Case References:** 79-6; 82-1; 84-2; 04-11

### **Discussion:**

How an engineer promotes him or herself in the context of professional practice can at times raise critical ethical issues. As noted in BER Case 04-11, the manner in which engineers advertise, represent themselves, or offer their services to the public has long been a subject of NSPE Board of Ethical Review opinions. The Board has offered opinions relating to classified advertising, the use of the Engineers' Creed in political advertisements, calendars and pencils, direct mail solicitation, and more. In fact, the BER *Consolidated Reference Table* identifies more than 30 previous cases dealing directly with advertising considerations. Clearly, the subject has been among the most examined ethical issues considered by the NSPE Board of Ethical Review.

It is also appropriate to observe that opinions about the ethics of professional advertising have changed over time. As a result of legal challenges to professional society codes of ethics during the 1960s and 1970s, the examination of ethical issues relating to advertising are now tempered with strong cautions relating to commercial free speech and antitrust considerations. In particular, BER case numbers 79-6, 82-1, and 84-2 incorporate this perspective.

This Board believes that contemporary questions about the ethics of advertising can be addressed relative to two primary considerations identified in the NSPE Code of Ethics. First, a fundamental principle is that such advertising must be conducted in a manner that is truthful and not misleading or deceptive. Second, such activities must conform to state registration laws and rules of practice. In both cases, the engineer's obligation is not just to satisfy the letter but also the spirit of the Code, consistent with upholding the dignity and integrity of the profession.

Other observations also have a direct bearing on the ethics of advertising relative to the use of business cards. With respect to regulation of the practice of engineering, this Board recognizes that state laws restrict engineering practice to those persons who are duly licensed in a particular state. Further, some states have regulations that prohibit engineers or engineering firms from seeking or performing work in a particular state unless the engineer or engineering firm is duly licensed or registered in that state. Thus, relative to business cards, the ethics—or, more correctly, the legality—of advertising might seem, in certain contexts, to turn on establishing what constitutes an offer to do business or perform work.

This Board openly acknowledges and celebrates the fact that engineers are persons engaged in the business of engineering, and, thus, the business card has multiple purposes. From a personal perspective, business cards serve the function of what were formerly known as calling cards, this purpose being to provide basic identification and contact information. From a functional perspective, the business card is used to promote the business and facilitate further business contact. Taken together, it is the view of this Board that business cards today represent a customary and accepted means by which engineers introduce themselves in both business and social contexts.

This Board does not take the position that handing out a business card, in whatever setting, is tantamount to offering to do work. Rather, this Board believes that other documents exist expressly for the purpose of securing work, such as statements of qualifications, proposals, contracts, and the like, and those documents are the customary and accepted means by which engineers and engineering companies offer to do business. While acknowledging that not all business is conducted using formal written agreements, it is the opinion of this Board that handing out a business card is an expression of accepted business etiquette and does not, *ipso facto*, rise to the level of an offer to do work, either personally or on behalf of an engineer's firm.

In BER Case 04-11, the Board reviewed a series of ethics scenarios involving the content and distribution of business cards. One of the scenarios involved Engineer A who was licensed in States B, C, and D. Engineer A participated in a business meeting in State E and handed out a business card indicating that he was a P.E. The business card listed Engineer A's name, phone and fax numbers, and e-mail address but did not list a mailing address, nor did it identify the states in which Engineer A was licensed. In deciding that Engineer A's actions were not consistent with the NSPE Code of Ethics because they appeared to be misleading and deceptive, the Board noted that the scenario presented a circumstance that could easily raise questions concerning Engineer A being perceived as a professional engineer in a state where he/she is not licensed.

In contrast to the situation in BER Case 04-11, the present case does not involve a professional engineer who is distributing a business card in a state where he/she is not licensed but instead involves a professional engineer who is distributing a business card in a state in which the professional engineer *is* licensed. Unlike BER Case 04-11, there does not appear to be any indication under the facts that Engineer A is engaged in any misleading or deceptive acts.

While there may be merit in providing a physical address on a business card, it is not the NSPE Board of Ethical Review's role to dictate or prescribe what should or should not be on a professional engineer's business card, unless the information included on or omitted from the card is clearly intended or has the effect of being misleading or deceptive.

In today's flexible and sometimes virtual work environment, where individuals and companies are not bound by geographic limitations, it is understandable why some engineering practitioners may wish to omit "brick and mortar" location information with no intention in being misleading or deceptive. The Board would also observe that a "brick and mortar" location in a state may in fact be nothing more than a shell location, which would be misleading and deceptive.

It is the Board's view that as long as the professional engineer is following all legal requirements and offering professional engineering services solely in those state(s) in which the individual is licensed (which, under the facts, is the case here), there should not be an ethical concern. On that basis, and in the present case, unless there is some legal proscription that requires an individual to include on a business card one's mailing address or the state in which the individual is licensed, or there is some other requirement of a physical office in the state, the Board is not of the view that it is unethical for Engineer A to not include a geographic address or the state(s) in which he is licensed on his business card.

**Conclusion:**

It is not unethical for Engineer A to not include a geographic address or the state(s) in which he is licensed on his business card.

**Board of Ethical Review:**

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*NOTE: The NSPE Board of Ethical Review considers ethical cases involving either real or hypothetical matters submitted to it from NSPE members, other engineers, public officials, and members of the public. The BER reviews each case in the context of the NSPE Code and earlier BER opinions. The facts contained in each case do not necessarily represent all of the pertinent facts submitted to or reviewed by the BER.*

*Each opinion is intended as guidance to individual practicing engineers, students, and the public. In regard to the question of application of the NSPE Code to engineering organizations (e.g., corporations, partnerships, sole proprietorships, government agencies, and university engineering departments), the specific business form or type should not negate nor detract from the conformance of individuals to the Code. The Code deals with professional services, which must be performed by real persons. Real persons in turn establish and implement policies within business structures.*

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