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Report on a Case by the Board of Ethical Review

Case No. 81-5

Advertising

Facts:

A conglomerate, which includes and lists several engineering firms in its literature, ran a full-page advertisement in a widely circulated magazine promoting the services of its various subsidiaries. The advertisement had a heading in large type: "YOU NEED A HIRED GUN." And below that large heading: "for the shootout down at the old wastewater treatment plant. Don't face the problem alone!" Following that text there was a listing of services offered by the conglomerate, and the words: "Contact one of our straight shooters"; then the name and address of the conglomerate and the listing of six firms which are presumably subsidiaries of the parent corporation, two of which used the word "engineering" in the firm name. To the side of the text was a large drawing portraying a "gun slinger" of the Old West.

Question:

Was it ethical for the principal engineers of the subsidiary firms to be parties to the advertisement?

References:

Code of Ethics - Section III.2.c. - "Engineers shall endeavor to extend public knowledge and appreciation of engineering and its achievements and to protect the engineering profession from misrepresentation and misunderstanding."

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:

We assume for the purposes of this case that the engineers associated with the two firms identified as engineering firms in the conglomerate structure are subject to the Code of Ethics. Even though the advertisement as a whole is basically in the name of the parent company, the showing of engineering firms as part of the conglomerate brings the engineers of those firms within the ethical standards of the profession. The Code of Ethics has for many years carried a notation to the effect that while it applies only to real persons, and not to corporations, as such, that fact does not negate conformance of individuals within corporate structures to the Code requirements.

If in this case, or any other case involving the relationship of individual engineers to corporate structures, it should be determined that the individual engineers were not responsible for particular acts of other corporate officers, it would be ethically incumbent upon those individual engineers so situated to take whatever action might be available to them to dissuade such action as might be contrary to the Code, or to disassociate themselves from such actions or policies. This duty is imposed by the principles of Sections III.2.c. and III.3.

Turning to the advertisement itself, we traced the background for the current wording compared with earlier, more stringent wording on advertising in previous versions of the Code in Case 78-8. We noted then that under "modern" criteria enunciated by the Supreme Court, the door for engineering advertising has been widened, but that some less sweeping regulation was still allowed. Accordingly, the Code still contains the restrictions and limitations stated in Section III.3.a., as quoted above.

We do not think it requires any extensive analysis to determine that the advertisement in question is a clear example of "showmanship", and includes the use of "slogans", and "sensational" language or format. We do not need to find that the advertisement offends every element of prohibited words and style, such as misleading statements, unjustified expectations, future success, opinion of the quality of service, or self-laudation. We can leave those elements for another day and another case.

It is sufficient, looking at the advertisement as a whole, to conclude that it offends basic principles calling for dignified representation of the offer of engineering services. The pictorial representation of a gun slinger, tied in with the large type on prospective clients' need for a "hired gun", is offensive to the concept enunciated in Section III.3., that engineers shall avoid conduct or practice likely to discredit the profession. Likewise, the tone and tenor of the advertisement conflicts with the mandate of Section III.2.c. that engineers have a duty to protect the engineering profession from misunderstanding.

While the engineering profession tends toward commercial forms of organization, such as conglomerates and more use of subsidiaries for a broader variety of services, that fact does not warrant portraying the profession in a purely commercial atmosphere; it hardly needs to be said that if that concept ever prevailed, engineering's professional status would be compromised.

Conclusion:

*It was not ethical for the principal engineers of the subsidiary firms to be parties to the advertisement.

*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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