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1. ENGINEERING AND SURVEYING, PROFESSIONAL INDIVIDUAL NOT REGISTERED OR EXEMPTED AS PROFESSIONAL ENGINEER AS DEFINED BY STATUTE MAY NOT USE WORD "ENGINEER" OR "ENGINEERING" IN ADVERTISEMENTS ALTHOUGH ENGAGED IN WORK AS TAX CONSULTANT, BUSINESS MANAGER OR ACCOUNTANT.
2. FIRMS, PARTNERSHIPS, ASSOCIATIONS—MEMBERS NOT REGISTERED OR EXEMPTED AS ENGINEERS—PROHIBITED FROM USING WORD "ENGINEER" OR "ENGINEERING" WITH ADVERTISEMENTS OF SUCH FIRMS, PARTNERSHIPS AND ASSOCIATIONS.

SYLLABUS:

1. An individual, not registered or exempted as a professional engineer in accordance with provisions of the act to regulate the practice of professional engineering and surveying, may not use the word "engineer" or "engineering", in connection with his advertisements, although such individual is engaged in work as a tax consultant, business manager or accountant.

2. Firms, partnerships, and associations whose members are not registered or exempted as engineers in accordance with provisions of the act to regulate the practice of professional engineering and surveying are prohibited from using the word "engineer" or "engineering", in connection with advertisements of such firms, partnerships and associations.

Columbus, Ohio, May 9, 1949

Mr. Robert N. Waid, Secretary, State Board of Registration for
Professional Engineers and Surveyors
Columbus, Ohio

Dear Sir:

Your request for an opinion, submitted to my predecessor is as follows:

"Under Section 1083-16 G. C., this board is authorized to 'designate the various recognized branches of professional engineering', and to this end the following branches have been established for purposes of examination: aeronautical, architectural, ceramics, chemical, civil, electrical, industrial, mechanical, metallurgical, mining and structural.

“The branch of electrical engineering, for example, encompasses fields or sub-branches of engineering such as electronics, radio, communications, illumination, power transmission and the like. In like manner, the branch of industrial engineering encompasses phases of engineering or industrial management concerned with production methods and means, layout and use of production and safety equipment, time and motion studies, product quality control, and the like. The branch of mechanical engineering encompasses heating and ventilating, air conditioning, machine design, and the like.

“Attorney General Bricker in 1936 A.G.O., No. 6467 held that an individual not registered as professional engineer could not advertise himself as a civil engineer or use any other similar title, apparently basing his opinion on the reasoning that one would not hold himself out to the public as an engineer unless he were seeking engineering work, or ‘holding out’ as a professional engineer.

“In view of the foregoing, we ask your opinion on the following :

“1. May an individual not registered as professional engineer under Sec. 1083-1 et seq., General Code, advertise himself as an engineer or use the word ‘engineer’ or ‘engineering’ in connection with his name or business in a form such as ‘electronics engineer’, ‘management engineer’, ‘heating or ventilating engineer’, ‘air conditioning engineer’ or the like?

2. May an individual not registered as professional engineer and not engaged in engineering practice, but engaged in work as tax consultant, business management, accounting, and the like, use the word ‘engineer’ or ‘engineering’ in connection with his name or business on letterheads, calling cards, directory listing, and the like, thus leading the public mistakenly to believe that he is a professional engineer?”

In 1933 the Legislature passed an act to regulate the practice of professional engineering and surveying, 115 O. L. 355, which laws were codified as Sections 1083-1 to 1083-26, both inclusive of the General Code. Under the provisions of Section 1083-1, General Code, it is provided :

“That in order to safeguard life, health, and property, any person practicing or offering to practice the professions of engineering or of surveying, shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the professions of engineering or of surveying, in this state, *or to use in connection with his name*

or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer or a surveyor, unless such person has been duly registered or exempted under the provisions of this act.” (Emphasis mine.)

Also pertinent to your question is Section 1083-2, General Code, which reads in part as follows :

“The term ‘professional engineer’ as used in this act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined.

“The practice of professional engineering within the meaning and intent of this act includes any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or privately owned public utilities, structures, buildings, machines, equipment, processes, works or projects, wherein the public welfare, or the safeguarding of life, public health or property is concerned or involved, when such professional service requires the application of engineering principles and data.”

This section defines and limits the practice of professional engineering to include “any professional services, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or privately owned public utilities, structures, buildings, machines, equipment, processes, works or projects, wherein the public welfare, or the safeguarding of life, public health or property is concerned or involved, when such professional service requires the application of engineering principles and data.”

From the language as stated in Section 1083-2, supra, it is clear that the meaning and intendment of the act is to prohibit any person from engaging in engineering activities of every kind, unless such person has duly qualified with your board under the provisions of the act by submitting his qualifications for registration.

Section 1083-16, General Code, is relevant to your question and reads in part :

“The board shall issue a certificate of registration upon payment of registration fee as provided for in this act, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. The board shall be authorized to desig-

nate the various recognized branches of professional engineering and to classify the applicant in the branch or branches for which he is qualified to register. In case of a registered engineer the certificate shall authorize the practice of 'professional engineering', in the branch or branches granted and in the case of a registered surveyor, the certificate shall authorize the practice of 'surveying.' Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board."

In the Opinions of the Attorney General for 1936, Volume III, Page 1708, it was stated :

"Legislation similar to this license law has been uniformly upheld as a proper exercise of police power. No doubt the Legislature felt that in the interest of the safety of the general public not only the actual practice of engineering should be regulated but also the public should be protected from persons who hold themselves out as engineers. In other words, the public should be protected from the possibility of deception by unlicensed persons."

In my opinion 962 published in the Opinions of the Attorney General for 1937, Volume II, at Page 1694, I stated in reference to Section 1083-16 as amended supra.

"The board shall be authorized to designate the various recognized branches of professional engineering and to classify the applicant in the branch or branches for which he is qualified to register."

I also stated in this Opinion that :

"The intention of the legislature as expressed in the foregoing amended section is so perfectly clear as to preclude the necessity for any construction. The legislature simply and plainly recognized the right of the members of the engineering profession to hold themselves out to the public as being qualified in a recognized branch or branches of engineering."

Your letter also suggests that some individuals, although not registered with your board as professional engineers, insert advertisements by omitting the word "professional" but do describe themselves as engineers of a certain type.

I construe such practice by these individuals as being an offer to the public to render engineering service. The representation by verbal claim, sign or advertisement that the individual practices any branch of the profession of engineering is an outright assertion that such individuals hold themselves out to the public as professional engineers. Certainly, if the service or work advertised by such individuals requires engineering education and training and the application of specific knowledge of the mathematical, physical and engineering science in conjunction with such service or work, then these individuals could not claim that they are not attempting to engage in the practice of professional engineering. Under the definition of professional engineer, as set out in Section 1083-2 supra, such activity by these individuals comes within that definition.

Specifically, included therein by clear and concise language is a distinct prohibition directed against individuals holding themselves out to the public as professional engineers, unless such individuals have fulfilled requirements for registration as professional engineers in conformity with provisions of the act.

It is therefore my opinion in the light of the provisions of the act that the answer to questions numbered one and two of your request is in the negative, and to question three in the affirmative, since the application of the law and its stated prohibitions would apply equally to firms, partnerships and associations as well as individuals.

Respectfully yours,

HERBERT S. DUFFY,
Attorney General.