



February 15, 2024

Mr. Jay Martin, P.E.
VSMSQ Structural Engineers LLC
Via e-mail

Re: Formal Response to Request for Policy Advisory Opinion Regarding The Use of Engineering Work Completed For A Previous Employer in Marketing Materials for Current Employer

Dear Mr. Martin:

The Texas Board of Professional Engineers and Land Surveyors (Board) met in public session on February 15, 2024, and approved this response to your request, dated July 21, 2023.

Request:

You seek guidance on the following issues:

- Can an engineer claim credit on a website or other marketing material for the portfolio of projects he or she designed while working for a previous employer, as long as they include a disclaimer stating that the work was done at a previous work engagement?

Response:

The Texas Engineering Practice Act (the Act) and Board rules do not directly address this situation.

Section 1001.203 of the Act contains provisions that address advertising, specifically that the Board may not restrict advertising or competitive bidding except to prohibit false, misleading, or deceptive practice. Further, Board Rule 137.63(c)(6) prohibits a licensee from soliciting employment through any false or misleading advertising. The advertising you describe in your question does not appear to be false, misleading, or deceptive.

Other Board rules that could apply to this situation are Board Rules 137.63(b)(4) and 137.63(b)(5) which require a licensee to act as a faithful agent for their employers or clients and to conduct engineering and related business affairs in a professional manner when interacting with involved parties and employees, respectively. The scenario you describe does not appear to violate either of these Board rules.

The Board does not find that using engineering work that you designed, signed, and sealed for a previous employer, which is clearly caveated as being done for a previous employer, in advertising materials is in and of itself a violation of the Act or Board rules.

The Board cannot speak to how such actions may relate to any employer-employee contractual agreement as enforcement of any such agreement would be a civil matter that falls outside the jurisdiction of the Board.

Conclusion:

No new Policy Advisory Opinion will be developed for this request.

If you have any further questions, please contact Mr. Michael Sims, P.E., Director of Compliance & Enforcement at 512.440.7723.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Kinney". The signature is written in a cursive style with a large, stylized initial "L" and "K".

Lance Kinney, Ph.D., P.E.
Executive Director

LK:MZS