



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Texas State Board of Registration for  
Professional Engineers  
Austin, Texas

Gentlemen:

Attention: F. E. Rightor

Opinion No. O-1825

Re: Is it a violation of the law  
for a graduate electrical and  
mechanical engineer to adver-  
tise himself as such?

We are in receipt of your recent request asking for  
an opinion of this department on the above stated question.

Section 22 of Article 3271a, Vernon's Civil Anno-  
tated Statutes, provides:

"Sec. 22. The Board shall have the power to  
revoke the certificate of registration of any  
registrant who is found guilty of:

"(a) The practice of any fraud or deceit in  
obtaining a certificate of registration;

"(b) Any gross negligence, incompetency, or  
misconduct in the practice of profession engi-  
neering as a registered professional engineer. . ."

Section 23 of Article 3271a, supra, reads as follows:

"Sec. 23. On or after the first day of Jan-  
uary, 1938, any person who shall practice, or  
offer to practice, the profession of engineering  
in this State without being registered or exempted  
in accordance with the provisions of this Act, or  
any person presenting or attempting to use as his  
own the certificate of registration or the seal of  
another, or any person who shall give any false or  
forged evidence of any kind to the Board or to any  
member thereof in obtaining a certificate of regis-

tration, or any person who shall violate any of the provisions of this Act, be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (500.00) Dollars, or be confined in jail for a period of not exceeding three (3) months or both. Each day of such violation shall be a separate offense.

"The Board is charged with the duty of aiding in the enforcement of the provisions of this Act, and any member of the Board may present to a prosecuting officer complaints relating to violations of any of the provisions of this Act; and the Board through its members, officers, counsel and agents may assist in the trial of any cases involving alleged violation of said statutes, subject to the control of the prosecuting officers.

"The Attorney General or his assistants shall act as legal adviser of the Board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act; provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such."

We quote from Texas Jurisprudence, Volume II, page 330, as follows:

"The Texas statutes at numerous places reflect the wise policy which demands that advertisements tell the truth and those those guilty of making false, deceptive and misleading statements be regarded as offenders against the criminal law. Thus false advertising of merchandise or anything offered for sale is an offense punishable by fine. (Article 1554, Penal Code) Advertising by banks and trust companies is stringently regulated, particularly in regard to truthfulness. (Article 438, Revised Civil Statutes; Articles 542, 543, Penal Code) Signs or advertisements which were used by a corporation now defunct may not be used under penalty of a fine. The advertising of employment agents is regulated and certain kinds of advertising by them are prohibited.

"Permits from lawful authority are sometimes necessary before a person pursuing a certain calling or business may advertise. Thus the Blue Sky Law penalizes the advertising of securities for sale without first having obtained the permit required. And it is a penitentiary offense to advertise one's-self as a livestock commission merchant without first having given the bond required by law. (Article 1500, Penal Code) Likewise advertising as a certified Public Accountant, or using in advertisements the initials 'C. P. A.' without having received the required certificate is a criminal offense punishable by fine. False-ly advertising one's-self as a 'Registered Cotton Seed Breeder' or 'Certified Cotton Seed Grower' is prohibited.

". . . The use of the flags of the United States and of the state of Texas for advertising purposes is prohibited under penalty. . . . But newspaper advertisement of the business, profes-sion and place of business of those practicing the healing art is expressly permitted. In many states advertising by attorneys at law is restricted, but there are no such provisions in the Texas statutes." (See note, 56 A. L. R. 1313)

Article 3 of the Penal Code provides that:

"In order that the system of penal law in force in this state may be complete within it-self, and that no system of foreign laws, written or unwritten, may be appealed to, it is declared that no person shall be punished for any act or omission, unless the same is made a penal offense, and the penalty is affixed thereto by the written law of this state."

After making a careful search of the statutes, we find no statute which prohibits advertising by registered professional engineers.

You are respectfully advised that it is the opinion of this department that it is not a violation of the law for a graduate electrical and mechanical engineer to advertise him-

self as such.

Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

(S) Ardell Williams

By

Ardell Williams  
Assistant

AW:GO

APPROVED JAN 16 1940

(S) Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED  
OPINION COMMITTEE  
BY EWB  
Chairman