

# MAINE STATE LEGISLATURE

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no  
October 18, 1963

Mr. John Calvin Stevens, Secretary  
Maine State Board for Registration of Architects  
127 Pleasant Street  
Portland, Maine

Re: Questions proposed by Wright & Pierce

Dear Mr. Stevens:

Your letter of September 17, 1963 together with a carbon copy of correspondence addressed to you by Joseph A. Aldred, Jr., Esquire, and your attached comment sheet are acknowledged.

Five questions have been asked of your Board by Attorney Aldred on behalf of his client Wright and Pierce. Because of the plural number of questions and of the attending possibility of confusion arising from but one joint discussion thereon, we present each question with a separate reasoning for the attending answer.

QUESTION #1:

Can an architect stamp his architectural work while an employee of an engineering corporation without the engineering corporation using its stamp, without affecting his status as an architect?

ANSWER:

Yes.

REASON:

If the plans or specifications are prepared by or under the direct supervision of a registered architect, they are required to be stamped with the architect's stamp or seal. R. S., c. 81, § 14. Certainly, a proper use by an architect of his seal or stamp is not affected by the failure of an engineer to have made proper use of his own stamp upon related work. Of course, the architect's improper use of his stamp or seal (as by the selling of the use of his stamp or seal to another to circumvent the Maine Statutes regulating architects) should never be tolerated. An architect should be in complete charge of his work; and exercising that authority conferred upon him by statute. We advance the following excerpts from Beck, et. al. v. Sampson, 158 Me. 502, as authority for the principles advanced.

" . . . . The architectural features of the enterprise were under (the architect's) supervision. He stamped his professional seal upon drawings he adjudged to be in a finished state, to certify that such had been prepared by or under his direct supervision. . . .

"Sawyer alone of the plaintiffs was a registered architect. Whether the commission to the plaintiffs was preponderantly or incidentally architectural, nevertheless, the jury were possessed of credible evidence that Sawyer accepted responsibility and did supervise the architectural features of the work. . . .

"The jury was sufficiently fortified by credible evidence in deciding that the mischief which the legislative enactment, R. S., c. 81, as amended, sought to remedy had in the instant case been allayed by the participation of the plaintiff Sawyer, registered architect, as the supervisor of the architectural features in the planning and designing of the projected Sampson

"residence. There was evidence to sustain a finding that Sawyer functioned as an autonomous professional associate and not as an employee or subaltern of Beck and that Beck's services upon the plans were not architectural. There was testimony that the work done was by classification and inextricably both architectural and engineering. R. S., c. 81, as amended, does not prohibit a full allocation of architectural features of a building to a registered architect and the assignment contemporaneously of engineering details as such to a registered engineer in collaboration. . . ." (Parenthesis supplied)

Another case of import is State of Maine v. Beck, 156 Me. 403,

QUESTION #2:

Can an architect stamp his architectural work while an employee of an engineering corporation with the engineering corporation using its stamp, without affecting his status as an architect?

ANSWER:

Yes.

REASON:

We incorporate the above reason by reference.

QUESTION #3:

Define the words Chief Executive Officer as used in the law regulating the registration of architects. R. S., c. 81, § 10, II.

ANSWER:

That person in a corporation holding the highest office of administrative authority.

REASON:

It has been held that a president and a vice president of a corporation are executive officers. Emerglick v. Philip Wolf, Inc., 138 F. 2d 661, 662. Generally, as between the two positions, the president is considered the chief executive officer (assuming that both positions are occupied)

"Sec. 752. President.

. . . .

" . . . He may be, and frequently is, made the chief executive officer of the company and invested with broad general powers of management and superintendence; and in such case he necessarily has many implied powers. . . ." 19 C.J.S., Corporations.

. . . .

"Irrespective of the inherent powers of the president, there can be no doubt that the board of directors may invest the president with authority to act as chief executive officer of the company. This may be done either by an express resolution or by acquiescence in a course of dealing. . . ." 13 Am. Jur., Corporations, § 897.

§ 753. Vice President.

. . . .

"The vice president of the ordinary corporation has little or nothing to do with the conduct of its business, except in case of the absence, disability, or death of the president. . . ." 19 C.J.S., Corporations.

But a leading text in the field of corporate law contains matter that one might well consider when determining who, of several corporate officers, is the chief executive officer.

"§ 506. Chairman of the board. The chairman of the board of directors is sometimes made the chief executive officer or he may have distinct duties. In general, the president is the chief executive officer. . . ."  
Fletcher Encyclopedia Corporations, Vol. 3,  
(Emphasis supplied)

We take this quoted passage as indicating that the determination necessarily involves the settlement of a question of fact, i.e., who, of several executive officers, holds the highest office of administrative authority.

QUESTION #4:

If the chief executive officer of an engineering corporation is an architect, can the corporation perform and advertise both architectural and engineering services assuming the architect does all the architectural work?

ANSWER:

Yes, provided there is compliance with R. S., c. 81, and the corporate purposes allow such action.

REASON:

We assume that the corporation charter contains a sufficient expression in its purposes as to allow the doing of such action. The applicable statutory expression is § 10, IX of c. 81, R. S..

Mr. John Calvin Stevens

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**QUESTION #5:**

Would a vice president in charge of architecture qualify as a chief executive officer within the meaning of the law regulating Registration of Architects, and permit a corporation to advertise and perform architectural services?

**ANSWER:**

Because there was no statement of fact accompanying the question, we respectfully decline to answer the same. We do repeat that the question is one of fact.

Respectfully yours,

John W. Benoit  
Assistant Attorney General

JWB/slf