

Tell the Truth, Even on Your Résumé

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In the current economic climate, more and more lawyers are polishing up their résumés and seeking employment. The ones that do will find a lot of company as there are an ever-increasing number of lawyers competing for a limited number of positions in the Twin Cities and throughout Minnesota. During this process, an individual may be tempted to embellish one's résumé beyond the point of mere optimism.

All lawyers must remember that the duty to refrain from dishonest conduct can extend beyond the actual practice of law. In addition to the duty to be honest to a tribunal (Rule 3.3 of the Minnesota Rules of Professional Conduct) and to refrain from knowingly making a false statement of fact or law in the course of representing a client (MRPC 4.1), all lawyers have a general duty to refrain from conduct involving dishonesty, fraud, deceit or misrepresentation (MRPC 8.4(c)). Courts, both in Minnesota and in other jurisdictions, have found that representations made in the process of seeking employment are governed by this duty.

It is understandable that job-seekers will attempt to cast the best possible light on their professional accomplishments. It is both commonplace and acceptable to describe weaknesses in one's résumé in the most favorable terms. However, the job-seeking attorney must be wary that his or her phrasing does not cross the line from optimism to misrepresentation.

Perhaps the easiest illustration is when an attorney fabricates his or her qualifications.

In *In re Scruggs*, 475 N.W.2d 160 (Wis. 1991), a Wisconsin attorney who falsified a transcript to obtain legal employment, lied about the transcript during the investigation and made additional false statements to obtain other employment, received a two-year suspension from the practice of law. It is beyond dispute that this attorney deliberately misled prospective employers with respect to his qualifications.

However, there are other situations in which the misconduct is not so egregious, but the attorney still faces professional discipline for misrepresentations made in the course of seeking employment.

In *In re Bromander*, 750 N.W.2d 299 (Minn. 2008), a Minnesota attorney applied to work for a legal temporary agency. In the course of completing his employment application, he indicated that he was in good standing. However, the attorney was actually on restricted status for failing to complete his continuing legal education requirements. The temporary agency placed him with a law firm, and after working there for approximately a year, the lawyer received a permanent offer of employment. His true status was

discovered after filing two court documents.

Although the attorney had made efforts to catch up on his CLE requirements, and had even submitted the last of his courses for approval, he still faced professional discipline for his misconduct. In addition to losing his position with the firm, the attorney received a public reprimand.

It is not even necessary for an attorney to make a false statement to face professional discipline. The purposeful omission of important information may be sufficient to render the attorney's course of conduct deceitful.

In *In re Floyd*, 929 A.2d 61 (Md. 2007), a lawyer applied for a job with the federal government, and obtained a job offer. In an effort to obtain a higher starting salary than was initially offered, the lawyer submitted a letter from her current employer, purportedly offering her additional money to remain at her current job. As a result of that letter, the government offered her a higher starting salary.

What the lawyer failed to disclose, however, was that her employer was also her husband. Although no overtly false statements were made by either the lawyer or her husband in the process, the court found that her failure to disclose the relationship (along with other circumstantial evidence that indicated that the lawyer intended to keep this information from her employer) deprived the government of information that was necessary to evaluate the reference and the job offer. Essentially, the court found that the excluded information was so central to the evaluation that its omission amounted to deception. The misconduct resulted in a 90-day suspension.

It can certainly be tempting to embellish one's résumé, either by the addition or omission of facts. In any line of work, the job-seeker faces the risk of dismissal if the embellishment crosses the line into deceit. If lawyers engage in this activity, they may face professional discipline.