

TEST YOUR ETHICS KNOWLEDGE

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Format

- Case presentation
- Discussion at tables
- Responses from Tables
- Board of Ethical Review Findings

NSPE Code of Ethics Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

ASHRAE Code of Ethics

- As members of ASHRAE, we pledge to act with honesty, fairness, courtesy, competence, integrity and respect for others in our conduct.
- Efforts of the Society, its members, and its bodies shall be directed at all times to enhancing the public health, safety and welfare.
- Members and organized bodies of the Society shall be good stewards of the world's resources including energy, natural, human and financial resources.
- Our products and services shall be offered only in areas where our competence and expertise can satisfy the public need.
- We shall act with care and competence in all activities, using and developing up-to-date knowledge and skills.
- We shall avoid real or perceived conflicts of interest whenever possible, and disclose them to affected parties when they do exist.
- The confidentiality of business affairs, proprietary information, intellectual property, procedures, and restricted Society discussions and materials shall be respected.
- Each member is expected and encouraged to be committed to the code of ethics of his or her own professional or trade association in their nation and area of work.
- Activities crossing national and cultural boundaries shall respect the ethical codes of the seat of the principal activity.

PUBLIC SAFETY

Failure to Report Information Affecting Public Safety

- Tenants of an apartment building sue the owner to force him to repair many defects in the building which affect the quality of use.
- Owner's attorney hires Engineer A to inspect the building and give expert testimony in support of the owner.
- Engineer A discovers serious structural defects in the building which he believes constitute an immediate threat to the safety of the tenants.
- The tenants' suit has not mentioned these safety related defects.
- Upon reporting the findings to the attorney, Engineer A is told he must maintain this information as confidential as it is part of a lawsuit.
- Engineer A complies with the request of the attorney.

Was it ethical for Engineer A to conceal his knowledge of the safety-related defects in view of the fact that it was an attorney who told him he was legally bound to maintain confidentiality?

DISCUSS AND REPORT

References

- Section II.1.a. -Engineers shall at all times recognize that their primary obligation is to protect the safety, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the safety, health, property or welfare of the public are endangered, they shall notify their employer or client and such other authority as may be appropriate.
- Section II.1.c. -Engineers shall not reveal facts, data or information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law or this Code.

Comments from the Board

- It is clear that there may be facts and circumstances in which the ethical obligation of engineers in protecting the public health and safety conflict with the ethical obligation of engineers to maintain the right of confidentiality in data and other information obtained on behalf of a client.
- While we recognize that this conflict is a natural tension which exists within the Code, we think that under the facts of this case, there were reasonable alternatives available to Engineer A which could assist him in averting an ethical conflict.

Comments from the Board

- Section II.1.c. makes a clear exception concerning the obligation of engineers not to reveal facts obtained in a professional capacity without the client's consent. That exception allows the disclosure of such information in cases authorized by the Code or required by law. We believe that in cases where the public health and safety is endangered, engineers not only have the right but also the ethical responsibility to reveal such facts to the proper persons. We also believe that state board rules of professional conduct might require such action by professional engineers.

Conclusions

- It was unethical for Engineer A to not report the information directly to the tenants and public authorities.

Duty to Report Unrelated Information Observed During Rendering of Services

- A public agency retains the services of VWX Architects and Engineers to perform a major scheduled overhaul of a bridge. VWX Architects and Engineers retains the services of Engineer A, a civil engineer, as its subconsultant to perform bridge inspection services on the bridge.
- Engineer A's scope of work is solely to identify any pavement damage on the bridge and report the damage to VWX for further review and repair.
- Three months prior to the beginning of the scheduled overhaul of the bridge, while traveling across the bridge, Police Officer B loses control of his patrol car. The vehicle crashed into the bridge wall. The wall failed to restrain the vehicle, which fell to the river below, killing Police Officer B.
- While conducting the bridge inspection, and although not part of the scope of services for which he was retained, Engineer A notices an apparent pre-existing defective condition in the wall close to where the accident involving Police Officer B occurred.
- Engineer A surmises that the defective condition may have been a contributing factor in the wall failure and notes this in his engineering notes. Engineer A verbally reports this information to his client, which then verbally reports the information to the public agency.
- The public agency contacts VWX Architects and Engineers which then contacts Engineer A and asks Engineer A not to include this additional information in his final report since it was not part of his scope of work.
- Engineer A states that he will retain the information from his engineering notes but not include it in the final report, as requested. Engineer A does not report this information to any other public agency or authority.

Question 1: Was it ethical for Engineer A to retain the information in his engineering notes but not include it in the final report as requested?

Question 2: Was it ethical for Engineer A not to report this information to any other public agency or authority?

DISCUSS AND REPORT

References

- II.1.c. - Code of Ethics: Engineers shall not reveal facts, data or information without the prior consent of the client or employer except as authorized or required by law or this Code.
- II.3.a. - Code of Ethics: Engineers shall be objective and truthful in professional reports, statements or testimony. They shall include all relevant and pertinent information in such reports, statements or testimony, which should bear the date indicating when it was current.
- III.1.a. - Code of Ethics: Engineers shall acknowledge their errors and shall not distort or alter the facts.
- III.2.b. - Code of Ethics: Engineers shall not complete, sign or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.

Comments from the Board

- The Board concludes that Engineer A did the appropriate thing in coming forward to his client with the information and also by documenting the information for possible future reference as appropriate. Under the circumstances it would have been improper for Engineer A to include reference to the information in his final report, particularly since it would have been based upon mere speculation and not careful testing or evaluation by a competent individual or firm.
- At the same time, the Board is of the opinion that Engineer A has an obligation to follow through to see that correct follow-up action is taken by the public agency. Only if the public agency does not take corrective action should Engineer A consider alternatives.
- Finally, for Engineer A to have reported this information to a public authority under the circumstances as outlined in the facts, before determining whether corrective action is taken, would have been an overreaction and could easily have risked jeopardizing the professional reputations of his client and the public agency.

Conclusions

- It was ethical for Engineer A to retain the information in his engineering notes but not include it in the final written report as requested.
- It was ethical for Engineer A not to report this information to any other public agency or authority as long as corrective action is taken by the public agency within a relatively short period of time.

GIFTS, TRIPS AND RAFFLE WINNINGS

Gifts—Passes to Industry Trade Show

- A national water association is holding their annual conference in a major city where Engineer A and his firm IJK Engineering are located.
- Engineer A and IJK Engineering have made arrangements with the national water association to purchase, for a fixed fee, an unlimited number of daily passes to the trade show portion of the conference.
- The normal cost of a daily pass is \$150. The trade show has exhibits from manufacturers, professional service firms, and others.
- Engineer A and IJK Engineering distributes passes to engineers employed by IJK Engineering clients and the engineers employed by potential clients.
- IJK Engineering encourages the recipients of the passes to make copies and give to other fellow engineers in accordance with the arrangements.

Question 1: Was it ethical for Engineer A and his firm IJK Engineering to distribute passes as set forth?

Question 2: Was it ethical for the recipient engineer to accept the pass?

DISCUSS AND REPORT

References

Section II.5.b. - NSPE Code of Ethics:

Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect of intent to influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

Comments from the Board

- Engineer A and his firm IJK Engineering engaged in what appears to be a generally accepted marketing activity to provide both current and potential clients access to an industry trade program where those current and potential clients could observe new and innovative water and related technology.
- The open-ended and flexible agreement between IJK Engineering and the national water association, which allowed individuals to copy the invitation and distribute it broadly to the greater engineering community, suggests that the understood intent of Engineer A and IJK Engineering was to support the national water association, and aid in the dispersion of information and knowledge about water issues in order to create general business good will.
- Clearly, there is nothing under the facts to suggest that Engineer A or IJK Engineering intended to use the tickets as “quid pro quo” to improperly influence the granting of any contract, the specific terms of any agreement, the renewal of any agreement, etc.

Conclusions

1. It was ethical for Engineer A and his firm IJK Engineering to distribute the passes as set forth.
2. It was ethical for the recipient engineers to accept the passes.

Vendor's Payment of Engineer's Travel Expenses

- Engineer A, who has expertise in sustainable design issues, is asked by a green building supplier to make a presentation at an industry educational conference on green building design and related sustainable design issues.
- Engineer A agrees to participate.
- Supplier offers to pay Engineer A's expenses and Engineer A accepts Supplier's offer.
- Engineer A shares a draft of his remarks with Supplier.
- Supplier then requests that Engineer A include within his slide presentation some slides that highlight some of the Supplier's green building products.

Question 1: Was it ethical for Engineer A to accept the Supplier's offer to pay Engineer A's travel expenses?

Question 2: Would it be ethical for Engineer A to include within his slide presentation some slides that highlight some of the Supplier's green building products?

DISCUSS AND REPORT

References

- *Section II.3.b. - NSPE Code of Ethics: Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.*
- *Section II.3.c. - NSPE Code of Ethics: Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.*
- *Section III.2.c. - NSPE Code of Ethics: Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.*
- *Section III.2.d. - NSPE Code of Ethics: Engineers are encouraged to adhere to the principles of sustainable development in order to protect the environment for future generations.*
- *Section III.5. - NSPE Code of Ethics: Engineers shall not be influenced in their professional duties by conflicting interests.*
- *Section III.5.a. - NSPE Code of Ethics: Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.*
- *Section III.7.c. - NSPE Code of Ethics: Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.*

Comments from the Board

- In the present case, Supplier, the apparent organizer of the educational session, has offered to pay Engineer A's travel expenses.
- While this alone (depending upon the amount, meeting location, and other factors) may not amount to substantial value, this offer combined with the Supplier's subsequent request that Engineer A include slides that highlight some of Supplier's green building products suggests an effort by Supplier to influence Engineer A's professional judgment in violation of the NSPE Code of Ethics.

Conclusions

- 1. It was unethical for Engineer A to accept Supplier's offer to pay Engineer A's travel expenses.
- 2. It would be unethical for Engineer A to include within his slide presentation some slides that highlighted some of Supplier's green building products.

Employment—Cash Door Prize

- Engineer A works for UVW Engineering. As part of Engineer A's activities and employment responsibilities on behalf of UVW Engineering, he attends various conferences and trade shows.
- While attending a recent conference and trade show at UVW Engineering's expense, Engineer A won a door prize worth \$5,000.

Would it be ethical for Engineer A to keep the door prize or is he required to remit the prize to UVW Engineering?

DISCUSS AND REPORT

Comments from the Board

- The present case did not involve a gift from a vendor by which a conflict of interest could easily arise.
- Also, based upon the facts, the gift was not directed at Engineer A, but instead was a door prize apparently based solely upon chance and not any direct attempt to influence Engineer A or UVW Engineering.
- The Board is also of the opinion that in view of the fact that Engineer A attended the educational event at the expense of UVW Engineering, Engineer A, as a representative of his employer, had an ethical obligation to, at a minimum, report and disclose the door prize to UVW Engineering.

Conclusions

Engineer A has an ethical obligation to, at a minimum, report the substantial door prize to UVW Engineering since Engineer A attended the educational event at the expense of UVW Engineering. The ultimate decision as to the best method of addressing this matter is solely between Engineer A and UVW Engineering.

USE OF BUSINESS CARDS AND ADVERTISING

Advertising: Business Cards with P.E. Designation

- Situation 1. Engineer A is licensed in States B, C, and D. Engineer A participates in a business meeting in State E and hands out a business card indicating that he is a P.E. The business card lists Engineer A's name, phone, fax, and e-mail address but does not list a mailing address, nor does it identify the states in which Engineer A is licensed.
- Situation 2. Engineer A is licensed in States B, C and D. Engineer A is invited to a business meeting in State E and hands out a business card indicating that he is a P.E. The business card indicates that Engineer A is licensed in States B, C and D and lists Engineer A's mailing address, etc. in State E.
- Situation 3. Engineer A's business card notes that Engineer A's offices are in State B but that engineer A is licensed in State C only. Engineer A resides and performs non-engineering consulting services in State B. Engineer A hands out his business card in State C.
- Situation 4. Engineer A is licensed in State B and his business card contains only State B information. On a *social* visit to State C, Engineer A provides his business card to a non-engineer Friend X. Friend X shares the card with Engineer D, telling Engineer D that Engineer A recently gave Friend X the card while visiting State C. Engineer D reports Engineer A to the State C engineering licensure board.

Were Engineer A's actions ethical in situations (1), (2), (3), and (4)?

DISCUSS AND REPORT

Comments from the Board

- It is the view of this Board that business cards today represent a customary and accepted means by which engineers introduce themselves in contexts both business and social.
- This Board does not take the position that handing out a business card, in whatever setting, is tantamount to offering to do work. Rather, this Board believes that other documents exist expressly for the purpose of securing work, such as statements of qualifications, proposals, contracts and the like, and those documents are the customary and accepted means by which engineers and engineering companies offer to do business.

Comments from the Board

- While acknowledging that not all business is conducted using formal written agreements, it is the opinion of this Board that the act of an engineer handing out a business card is an expression of accepted business etiquette and does not, *ipso facto*, rise to the level of an offer to do work, either personally or on behalf of an engineer's firm.

Conclusions

- Situation (1) presents a circumstance that could easily raise questions concerning Engineer A being perceived as a “professional engineer” in a state where he/she is not licensed, *e.g.*, State E. In recognition that engineering licensure falls within the jurisdiction of the states, it is the opinion of this Board that, to avoid confusion or any appearance of deception about licensure, business cards should identify a physical address for the engineer. The business card in Situation (1) does not identify a physical address, and for this reason the scenario is not acceptable.

Conclusions

- In Situation (2), Engineer A identifies his residence as State E, the state in which he is attending the business meeting, and also identifies the states in which he is licensed. The clear representation is that Engineer A is not licensed in State E even though his business address is there. Under the NSPE Code of Ethics, Engineer A's actions are truthful and not deceptive.
- A conventional assumption prevails; namely, that the engineer whose name and "P.E." designation appears on a business card is licensed in the state indicated by the physical address on the card. If the engineer is not licensed in the state where he/she resides (or where his or her business resides) as per the physical address, then the card should clearly indicate the state(s) in which the person is licensed.

Conclusions

- By the same line of reasoning, Situation (3) also describes an ethically acceptable practice.
- As to Situation 4, the Board can see no violation of the NSPE Code. Clearly Engineer A's distribution of his business card during a social occasion was entirely proper and was not intended as a representation that Engineer A was licensed in State C.
- The Board notes in passing that it would appear that Engineer D did not exercise appropriate judgment and discretion by bringing this matter to the State C engineering licensure board.

Want More Ethics Cases?

- <http://www.nspe.org/Ethics/EthicsResources/BER/index.html>