



## **Modifications of Engineer's Scope of Work Memorandum for Engineering Study for Client**

Case No. 14-5

### **Facts:**

Engineer A, is a professional engineer and a traffic engineer. Engineer A's supervisor, Engineer B, is a professional engineer and vice president of XYZ Engineering. Engineer B asks Engineer A to develop a written a scope of work for an engineering study for a client. Engineer A drafts the scope of work memorandum and sends the memorandum to Engineer B and Engineer B's assistant for review.

Approximately a month later, Engineer A receives a courtesy copy of an e-mail from Engineer B, along with a version of Engineer A's memorandum as revised by Engineer B, with Engineer A listed as the sole author. Engineer A objects to Engineer B making the changes to the memorandum without Engineer A's knowledge or consent. Engineer B replies that the memorandum was "not as strongly stated as it should have been" and implies that Engineer A is "making a big deal about nothing."

### **Question:**

Was it ethical for Engineer B to make the changes to the memorandum without Engineer A's knowledge or consent?

### **NSPE Code of Ethics References:**

*Section II.3. Engineers shall issue public statements only in an objective and truthful manner.*

*Section II.3.a. 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.*

*Section III.3.a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.*

*Section III.9.a. Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.*

**Discussion:**

Ethical issues related to providing credit and attribution in engineering work have been the subject of several Board of Ethical Review cases over the years. Many of the cases have involved the failure of a party to provide appropriate credit or attribution to another party who was responsible for the preparation of all or part of the engineering work as well as efforts to imply responsibility for design where none existed. The case presented here, however, involves an apparent effort on the part of one engineer to potentially transfer sole responsibility for work to another engineer.

NSPE Code of Ethics Section III.7.a. admonishes engineers against reviewing the work of another engineer for the same client except with the expressed knowledge of the engineer whose work is being reviewed or unless the original relationship between the first engineer and the client has been terminated.

In BER Case 79-7 an engineer was asked to inspect mechanical and electrical engineering work performed seven years earlier. The Board concluded that the engineer notified the former engineer that the engineer was being retained to perform review and inspection services and that the review would entail a review of the original design. Said the Board: "It may be helpful for future guidance to again point out that the purpose of Section 12(a) (now Section III.7.a.) is to provide the engineer whose work is being reviewed by another engineer an opportunity to submit...comments or explanations for... technical decision, thereby enabling the reviewing engineer to have the benefit of a fuller understanding of the technical considerations in the original design in framing... comments or suggestions for the ultimate benefit of the client."

Later, in BER Case 86-4, Engineer A prepared subdivision plans for a client. These plans included a 5-sheet set of grading plans and a 38-sheet set of public improvement plans. Each set had a cover sheet, and all sheets in each set were signed and sealed by Engineer A. The client was not satisfied with the plans, so he discharged Engineer A after paying the complete fee for production of the plans. The client asked Engineer A for his original drawings. Engineer A complied, retaining a set of reproducible drawings. Engineer B was later retained by the client to review and redesign the project. The client gave Engineer B the set of plans produced by Engineer A to use as a guide in the redesign. Engineer B reviewed the original drawings, made changes on the grading plans, including deletion of one sheet, raising the elevation of the housing pads and changing routing of the street. Engineer B did not note what changes were made nor did he sign any of the sheets, including the cover sheet. Engineer B also made major design changes to the storm drains, pipe dimensions, sewers, and utilities in the public improvement plans. He made no notation of the changes, did not sign the plans, and left Engineer A's seal and signature intact. Engineer B placed a note on the title sheet of the public improvement plans, leaving Engineer A's signature and seal intact, stating that he,

Engineer B, is taking responsibility for the "revisions of the plans," making no notation what those changes were. At no time after Engineer B was retained were there any communications between the two engineers.

The Board ruled that Engineer B had acted unethically by (1) performing services for the client without first notifying Engineer A, (2) making changes on specific sheets of a set of drawings without clearly indicating those changes and, (3) failing to note his assumption of full responsibility for the entire set of drawings.

The Board recognizes the facts in the present case are somewhat different than those in the two earlier cases, particularly because the present case involves internal practices and procedures within an engineering firm. However, the Board believes that there are some basic ethical principles from the earlier cases that are applicable to the present case and for much of the same reason. In the present case, it is the Board's view that regardless of whether Engineer A was a subordinate of Engineer B, collegiality and professional respect would suggest that Engineer B had an ethical obligation to first advise and consult with Engineer A regarding Engineer B's changes to Engineer A's work, particularly because Engineer B attributed the work solely to Engineer A. In the final analysis, while Engineer B was not required to obtain Engineer A's permission to change the scope of work memorandum in question for the client, if any changes to Engineer A's work were in fact included in the final version of the memorandum, Engineer B should have advised Engineer A before sending the document to the client, identified the party who made the changes, and clarified the role of Engineer A and the role of others in the preparation of the scope of work memorandum. Engineer B's failure to do so not only violated an ethical obligation among engineers, but also conveyed inaccurate information to a client, a violation of the NSPE Code of Ethics.

In passing, the Board notes that if Engineer B had concerns that Engineer A's scope of work memorandum was "not as strongly stated as it should have been," Engineer B had an obligation to discuss these concerns prior to finalizing the document and sending it to the client. The Board is also troubled by Engineer B's minimization of Engineer A's concerns, which suggests a lack of understanding of need for professional peers to treat one another with respect and acknowledgement.

**Conclusion:**

It was unethical for Engineer B to make the changes to the memorandum without Engineer A's knowledge or consent while still listing Engineer A as the sole author. It is the Board's view that regardless of whether Engineer A was a subordinate of Engineer B, professional respect would suggest that Engineer B had an ethical obligation to first advise and consult with Engineer A regarding Engineer B's changes to Engineer A's work, particularly because Engineer B attributed the work solely to Engineer A.

**Board of Ethical Review:**

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