REFERENCES:

II.4.	-	*Code of Ethics:*	*Engineers shall act for each employer or client as faithful agents or trustees.*
III.1.	-	*Code of Ethics:*	*Engineers shall be guided in all their relations by the highest standards of honesty and integrity.*
III.7.	-	*Code of Ethics:*	*Engineers shall not attempt to injure, maliciously or falsely,* directly or *indirectly, the professional reputation, prospects, practice or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.*
III.7.a.	-	*Code of Ethics:*	*Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.*
III.9.a.	-	*Code of Ethics:*	*Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.*

USE OF TITLE "ENGINEER" – REFUSING TO SIGN/SEAL DOCUMENTS

FACTS:

Engineer A is employed by Engineer B's firm, AYZ Engineering, a small engineering firm, as a draftsman. Engineer A attended, but did not graduate from a two-year technical trade program. However, a few years later, by obtaining acceptable engineering experience, self-study, etc., Engineer A becomes eligible and passes both the Fundamentals of Engineering and the Principles and Practice of Engineering Examinations and thereafter becomes licensed as a professional engineer. Engineer A's responsibilities include design work and the signing and sealing of engineering drawings. However, following Engineer A's licensure as a professional engineer, Engineer B refuses to permit Engineer A to use the title "engineer" within or in relations with firm clients, on business cards, etc., instead telling Engineer to use the title "technical specialist" because Engineer B does not believe Engineer A possesses the educational qualifications to be considered or called an engineer. Engineer B, a professional engineer, possesses both an accredited bachelor's degree in engineering and a graduate degree in engineering. After a period of time, during which Engineer A and Engineer B disagree on this point, Engineer A refuses to sign and seal drawings unless Engineer B permits Engineer A to use the title "engineer."

QUESTIONS:

Question 1: Was it ethical for Engineer B to refuse to permit Engineer A to use the title "engineer"?

Question 2: Was it ethical for Engineer A to refuse to sign and seal drawings unless Engineer B permits Engineer A to use the title "engineer"?

DISCUSSION:

The facts and circumstances in this case appear to involve a professional engineer employer that refuses to acknowledge the professional status of an employed professional engineer, ostensibly because his employee does not possess academic credentials that Engineer B deems sufficient to achieve the status of a professional

engineer.

The issue of what constitutes appropriate professional engineering experience is generally considered both a matter of policy and law. Over the years, various professional organizations, including NSPE, have developed professional policies that outline acceptable educational qualifications for licensure. Currently, NSPE's basic position on this issue is that only individuals who are graduates of ABET/EAC programs should be permitted to sit for the FE and PE examinations. This policy would exclude individuals such as Engineer A, as well as those individuals with unaccredited engineering degrees, engineering technology degrees, etc. The rationale for these policies is that these degrees are not designed to educate or equip the graduate to practice as a professional engineer.

Over the years, the BER has had occasion to consider the issue of educational credentials and professional ethics. BER Case No. 79-5 is instructive on this important issue. There an engineer received a Bachelor of Science degree in 1940 from a recognized engineering curriculum and subsequently was licensed as a professional engineer in two states. Later he was awarded an earned "Professional Degree" from the same institution. In 1960 he received a Ph.D. degree from an organization that awards degrees on the basis of correspondence, without requiring any form of personal attendance or study at the institution, and is regarded by state authorities as a "diploma mill." The engineer listed his Ph.D. degree among his academic qualifications in brochures, correspondence, and otherwise, without indicating its nature. In finding that it was unethical for the engineer to cite his Ph.D. as an academic qualification under these circumstances, the Board noted that the engineer was charged with knowledge of the accepted standards of the profession. By stating that he had a Ph.D. degree, he should have been aware that those who receive his communications would be deceived. While the Board noted that there may be some flexibility allowed for state licensing boards to decide which educational attainments meet the standards for licensure purposes, and there is some flexibility allowed to members of the profession in listing academic degrees from institutions or curricula not recognized by the state boards, the bounds of such flexibility are exceeded when the basis for the claimed educational achievement is a mail-order procedure. Clearly, BER Case No. 79-5 recognized the Board's flexibility and latitude in determining the appropriate educational qualifications for licensure.

More recently in BER Case No. 91-9, a professional engineer, Engineer A, occasionally provides forensic engineering services as part of the litigation process. As part of a written submission during a legal proceeding, Engineer A indicated that he possesses a degree in electrical engineering and a doctoral degree in electrical engineering. In fact, Engineer A's baccalaureate degree was in engineering technology and his doctoral degree was an honorary degree bestowed upon him by an engineering school. Engineer B, who knew Engineer A, learned of these misrepresentations in discussions with his colleague, Engineer C, who is serving as an expert witness for the side opposing Engineer A's client. Engineer C was unaware of the misrepresentation. The Board concluded that Engineer B had an ethical obligation to report the misrepresentation to the appropriate authorities and that, in some circumstances, as a matter of courtesy, it may be appropriate for Engineer B to advise Engineer A that his misrepresentation is unethical, but such actions are not required by the NSPE Code of Ethics.

It is the Board's view that the facts of the present case can be contrasted with the facts and circumstances in the two aforementioned cases in many respects. Unlike BER Case Nos. 79-5 or 91-9, there was clearly no attempt or effort on the part of Engineer A to mislead or deceive his employer or his clients about his academic credentials. Instead, there is nothing under to facts to suggest that Engineer A was anything other than direct and up-front with his employer, Engineer B, concerning his academic credentials. In fact, Engineer A's employer, Engineer B, hired Engineer A on the basis of his skills as a draftsman and technician. At the same time, Engineer A sought to improve himself by obtaining the necessary experience and education through self-study (See NSPE Code Section III.11.d.) and becoming a licensed professional engineer consistent with the provisions of the NSPE Code (See NSPE Code Section III.11.c.). Therefore, based upon earlier precedent, the Board cannot find fault with Engineer A in connection with his desires, attainment, or representation of his academic qualifications as such.

The Board, however, is somewhat troubled about Engineer A's refusal to sign and seal drawings unless Engineer B permits Engineer A to use the title "engineer," since this appears to be a threatening posture

that could impact the interests of clients of the firm, for which both Engineers A and B are responsible (See NSPE Code Section II.4.). Under the facts, although it appears that Engineer B's position is unjustified because Engineer A has achieved the status of "professional engineer," regardless of his limited academic achievement, it would appear that this case is a matter of internal policy on the part of Engineer B's firm. A far better approach for Engineer A would be to continue to seek to convince Engineer B of the errors in his judgment, and possibly seek the support of other professional colleagues to persuade Engineer B that his decision not to grant Engineer A the title "engineer" is in error. However, to punish a client for Engineer B's unreasonable actions is improper.

At the same time, the Board is deeply troubled by Engineer B's position concerning this matter. While as a philosophical proposition it is difficult to quarrel with the argument that an accredited degree is the most appropriate academic credential for engineering licensure, many states recognize alternative paths for licensure and many individuals are licensed as professional engineers without an engineering degree or <u>any</u> degree for that matter. For Engineer B to take it upon himself to determine personally who is qualified to be called an "engineer" seems extremely narrow-minded. On this basis, it is the Board's view that once Engineer A was granted status as a professional engineer by his state, Engineer B should have accepted that status as the basis for granting Engineer A the title "engineer" in the firm.

We are also concerned that Engineer B's decision to require Engineer A, a professional engineer, to use the title "technical specialist" in lieu of "engineer" could be misleading to clients who may see Engineer A's signature and seal on drawings and not understand or appreciate his professional status or his contributions to the work performed (see NSPE Code Section III.9.a., III.7.a.).

Finally, Engineer B's refusal to permit Engineer A to use the title "engineer," while a private, internal decision within Engineer B's firm, could be seen as possibly injuring the professional prospects of Engineer A, in violation of Section III.7 of the NSPE Code. Engineer A was clearly directed by Engineer B to perform engineering services, including being in responsible charge of engineering work, by signing and sealing such work for the benefit of Engineer B's firm. To refuse to grant Engineer A the title that most accurately describes the services Engineer A is responsible for performing causes confusion and goes beyond the bounds of ethical conduct.

<u>CONCLUSIONS</u>:

Question 1: It was not ethical for Engineer B to refuse to permit Engineer A to use the title "engineer."

Question 2: It was not ethical for Engineer A to refuse to sign and seal drawings unless Engineer B permits Engineer A to use the title "engineer."

NOTE: ***The NSPE Board of Ethical Review (BER) considers ethical cases involving either real or hypothetical matters submitted to it from NSPE members, other engineers, public officials and members of the public. The BER reviews each case in the context of the NSPE Code of Ethics and earlier BER opinions. The facts contained in each case do not necessarily represent all of the pertinent facts submitted to or reviewed by the BER.***

Each opinion is intended as guidance to individual practicing engineers, students and the public. In regard to the question of application of the NSPE Code of Ethics to engineering organizations (e.g., corporations, partnerships, sole-proprietorships, government agencies, university engineering departments, etc.), the specific business form or type should not negate nor detract from the conformance of individuals to the NSPE Code. The NSPE Code deals with professional services -- which services must be performed by real persons. Real persons in turn establish and implement policies within business structures.

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