

Report on a Case by the Board of Ethical Review

Case No. 61-9

Subject:

Responsibility for Public Safety

Canon 4-Canons of Ethics; Canon 8-Canons of Ethics; Canon 11- Canons of Ethics; Canon 12-Canons of Ethics; Canon 14-Canons of Ethics; Canon 19-Canons of Ethics; Rule 9-Rules of Professional Conduct; Rule 12-Rules of Professional Conduct; Rule 25-Rules of Professional Conduct.

Facts:

A manufacturing company holds a contract for the development and production of a completely automated mass transportation system. A failure of the system, should it occur, would endanger the public safety. Periodic engineering tests have been conducted of the various components during the development period, but the assembly fails the final tests. The engineer who is manager of the department charged with responsibility for the project reports the failure to his superiors. He is told, however, that in order to meet contract commitments the equipment will be shipped to the client without notifying the client of the failure of the final tests. The engineer voices objection to this decision, but learns that the shipment subsequently is made to the client.

Question:

Does the engineer have any further ethical duty in these circumstances?

References:

Canons of Ethics-Canon 4-"He will have due regard for the safety of life and health of public and employees who may be affected by the work for which he is responsible."

Canon 8-"The-engineer will act in professional matters for each client or employer as a faithful agent or trustee."

Canon 11-"He will guard against conditions that are dangerous or threatening to life, limb or property on work for which he is responsible, or if he is not responsible, will promptly call such conditions to the attention of those who are responsible."

Canon 12-"He will present clearly the consequences to be expected from deviations proposed if his engineering judgment is overruled by non-technical authority in cases where he is responsible for the technical adequacy of engineering work."

Canon 14-"He will disclose no information concerning the business affairs or technical processes of clients or employers without their consent."

Canon 19-"The engineer will endeavor to protect the engineering profession collectively and individually from misrepresentation and misunderstanding."

Rules of Professional Conduct-Rule 9-"He will regard his duty to the public welfare as paramount."

Rule 12-"He will be conservative and honest in all estimates, reports, statements, and testimony."

Rule 25-"He will not complete, sign, or seal plans and/or specifications that are not of a design safe to the public health and welfare. If the client or employer insists on such unprofessional conduct, he shall call building authorities' attention to the case and withdraw from further consulting business or service on the project."

Discussion:

The Canons and Rules make it abundantly clear that the engineers' first and primary duty is to the public. The failure of the assembly on the final tests raises the safety will be jeopardized if it is put into operation.

Canon 8, which places a duty definite possibility that the public upon the engineer to act as a faithful agent or trustee for his employer or client, does not authorize or require his acquiescence in a decision which he knows endangers the public safety. His duty to his employer is limited and conditioned by his higher duty to protect the public safety, as dictated by Canon 4 and Canon 11. Although he has fulfilled his duty under Canon 12 to call the danger to the attention of his superiors, the engineer cannot ethically stop there if he knows that his protest has been unheeded and that the danger to the public continues.

Canon 14 is not a bar to further action by the engineer. His duty not to disclose information concerning the business affairs or technical processes of his employer without consent is subordinate in these circumstances to his duty to protect the public safety. When Canons and Rules are in apparent conflict, those Canons or Rules which deal with public safety, health or welfare must take precedence over all other considerations.

Before any disclosure is made to the client or to responsible authorities, the engineer should exhaust all avenues of appeal within the company. If these efforts are not successful, however, the engineer may, and in this case should, bring the danger to the attention of the client and the responsible authorities. He should first advise his employer of his intention to do so.

Conclusion:

The engineer should make every effort within the company to have the corrective action taken. If these efforts are of no avail, and after advising the company of his intentions, he should notify the client and responsible authorities of the facts.