

## **Report on a Case by the Board of Ethical Review**

### **Case No. 62-13**

#### **Fees**

##### **Facts:**

A consulting engineer regularly charges fees less than those stated in the recommended fee schedule of the state professional engineering society.

##### **Question:**

Is it unethical for an engineer to regularly charge fees below those recommended by the state professional engineering society?

##### **References:**

Canons of Ethics Canon 21-"He will uphold the principle of appropriate and adequate compensation for those engaged in engineering work, including those in subordinate capacities, as being in the public interest and maintaining the standards of the profession."

Rules of Professional Conduct Rule 35-"He will not undertake work at a fee or salary that will not permit professional performance, according to accepted standards of the profession."

Rule 36-"He will not accept work in the geographic area in which he practices or intends to practice at a salary or fee below that recognized as a basic minimum in that area."

##### **Discussion:**

The stated purpose of the cited Canon and Rules is to protect the public interest through maintaining the standards of the profession. We assume, therefore, for the purpose of this case, that the engineer in question does in fact perform his engineering assignments on a professionally acceptable basis and in accordance with the standards of the profession.

Recommended state fee schedules are advisory in nature and serve as a general guide to indicate to the profession and to prospective clients what the normal fee range may be for particular types of work. It is uniformly recognized that such fee schedules are flexible in application and that the general fee guidelines are subject to adjustment depending upon the nature and difficulty of the project, the reputation of the engineer or time available for the work, and similar factors which must be considered in negotiating a fee which is fair to the client and the engineer.

Hence, we are not concerned here with the question of evaluating the fairness of a particular fee for a particular project. But where it is established that the engineer regularly charges fees below those recommended and which are generally followed by

the profession in the particular area, it logically follows that the engineer is undermining the standards of the profession by creating a situation in which other engineers may be forced on economic grounds to reduce their fees. This will likely result in a lowering of the quality of professional engineering work in the area and foster a loss of public confidence. Rule 36, we believe, must be read in this sense rather than as an attempt by the profession to control fees on particular projects. To support a charge of unethical practice on these grounds it must be shown that the engineer regularly charges fees below the prevailing pattern in the area.

It is not our function to determine whether a rigid requirement to maintain recommended minimum fees is a violation of state or Federal anti-trust laws. It is by no means settled whether such laws apply to the professions, in any event. But as a matter of ethical precepts the basis for a charge of unethical conduct based on below normal fees should be predicated on the eventual result of a lowering of the quality of services.

**Conclusion:**

It is unethical for an engineer to regularly charge fees below those contained in a recommended fee schedule followed by the profession in the area.

**Board of Ethical Review:** PHIL T. ELLIOTT, P.E. PIERCE G. ELLIS, P.E. A. C. KIRKWOOD, P.E. W. S. NELSON, P.E. M. C. NICHOLS, P.E. E. K. NICHOLSON, P.E. L. R. DURKEE, P.E., Chairman