

Report on a Case by the Board of Ethical Review

Case No. 64-10

Subject: Services to Joint Clients

Section 8-Code of Ethics; Section 10-Code of Ethics.

Facts:

A consulting engineer is contacted jointly by several manufacturers of competing products and requested to perform comparative evaluation of the products of these several manufacturers. It is understood that the manufacturers may, by mutual consent, disseminate the engineer's report to third persons.

Question:

May a consulting engineer ethically serve joint clients (manufacturers of competing products) and have his comparative evaluations of the products circulated to third persons with the mutual consent of the clients?

References:

Code of Ethics-Section 8-"The Engineer will endeavor to avoid a conflict of interest with his employer or client, but when unavoidable the Engineer shall fully disclose the circumstances to his employer or client."

Section 10-"The Engineer will not accept compensation, financial or otherwise, from more than one interested party for the same service, or for services pertaining to the same work, unless there is full disclosure to and consent of all interested parties."

Discussion:

Both Section 8 and Section 10 are clearly intended to prevent an engineer from acting for one client to the detriment of another client. Both references provide, however, that in cases of possible conflict of interest the first obligation of the engineer is to disclose all pertinent facts to the parties in interest.

Neither section of the Code is absolute regarding possible conflicts of interest; the only absolute condition is that the interests of the client be protected by advising him of the facts so that he, the client, can determine how best to protect his interests.

Applying these principles to the facts of the case, there obviously can be no objection to the engineer rendering the services requested by joint clients, even though it is indicated that the engineer's comparative evaluations of competitive products may be used to the detriment of one or more of the joint clients. For reasons best known to the joint clients, they regard such a service as being of value for their purposes.

As to circulation of the comparative evaluation reports, the joint clients have the determining voice in deciding their interests in providing for this possible use of the reports. Full disclosure would be accomplished under the arrangement between the engineer and the joint clients.

Conclusion:

A consulting engineer may ethically provide manufacturers of competing products with comparative evaluation reports and permit their circulation to third persons if desired by all the joint clients.

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