

Report on a Case by the Board of Ethical Review

Case No. 67-2

Free Engineering on Municipal Project

Facts:

Engineer "A", a partner in a consulting engineering firm, attended a public meeting of the city council of the community in which he resides, which had before it the question of the design and construction of a community swimming pool. Engineer "B", a consulting engineer, is retained by the city in a general advisory capacity on an annual basis, but if selected for a specific project he is paid a normal professional fee in addition to his retainer. It had been assumed that if the project was approved Engineer "B" would prepare the preliminary plans, in accordance with past practice, and that the city council would decide later on the selection of a consulting engineer to prepare the final plans and specifications.

At the meeting, Engineer "A" publicly stated to the city council that he would draw the preliminary plans at a fee equal to the recommended fee schedule of the state professional engineering society, minus a percentage of the fee attributable to his personal services. He further stated that his offer was intended to donate his personal services to the community, but noted that it is usual to award the final design contract to the person or firm who prepares the preliminary plans because of potential savings in work duplication.

Question:

Was the action of Engineer "A" in conflict with the Code of Ethics?

References:

Code of Ethics-Section 2(b)- "He shall seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health and well-being of his community."

Section 4-"The Engineer will endeavor to extend public knowledge and appreciation of engineering and its achievements and to protect the engineering profession from misrepresentation and misunderstanding."

Section 9-"The Engineer will uphold the principle of appropriate and adequate compensation for those engaged in engineering work."

Section 9(a)-"He will not undertake or agree to perform any engineering service on a free basis, except for civic, charitable, religious, eleemosynary nonprofit organizations when the professional services are advisory in nature."

Section 9(b)-"He will not undertake work at a fee or salary below the accepted standards of the profession in the area."

Section 11-"The Engineer will not compete unfairly with another engineer by attempting to obtain employment or advancement or professional engagements by competitive bidding, by taking advantage of a salaried position, by criticizing other engineers, or by other improper or questionable methods."

Discussion:

Even if Engineer "A" had been motivated by the best intentions to donate his professional skills for the betterment of his community, his actions raise substantial ethical questions. The fact that he stated publicly that it is usual practice to retain for the final design the firm which prepares the preliminary plans, while generally true and sound practice, in our opinion, removes any question of altruistic motivation. The inference is that he saw a pecuniary advantage in providing "free" engineering services.

Section 2(b) of the Code, favoring constructive service in civic affairs, must be read in the context of the entire Code. In this case it is particularly tempered by the dictate of Section 4 that the Engineer will endeavor to protect the engineering profession from misrepresentation and misunderstanding; by Section 9(a), limiting free engineering; and by Section 11, forbidding an Engineer to compete unfairly with another Engineer by the use of improper or questionable methods. We have no doubt that Engineer "A" did use improper or questionable methods by attempting through his offer of "free" engineering, to gain an advantage over other engineers who might be considered for the project.

Engineer "A" was also in violation of Section 9 and Section 9(b) of the Code by his offer to reduce the fee for the preliminary design to the extent of his personal services. The effect of the offer, if accepted, would be to provide engineering services on a "cut-rate" basis.

Section 9(a), which permits an Engineer to provide free engineering for civic, charitable, religious, eleemosynary nonprofit organizations, is of no assistance to Engineer "A" because that Section of the Code further provides, in any event, that the free services are "advisory in nature." Here the offer was to provide the actual design services, albeit of a preliminary nature. This is not "advisory." We hold that the free engineering authorized by Section 9(a) does not apply in a case of this type. The word "civic" in Section 9(a) does not extend to public bodies, such as cities, counties, townships, state agencies, etc., but is restricted to voluntary organizations, having a major purpose of serving the welfare of the community in general or specific segments thereof.

Conclusion:

The action of Engineer "A" was a violation of the Code of Ethics.

BOARD OF ETHICAL REVIEW CASE REPORTS: The Board of Ethical Review was established to provide service to the membership of the NSPE by rendering impartial opinions pertaining to the interpretation of the NSPE code of ethics.

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