

Report on a Case by the Board of Ethical Review

Case No. 70-4

Performance of Nonprofessional Services During Strike

Facts:

A strike of production and maintenance employees of an oil company seriously disrupted normal operations, including the continued operation of a refinery. Management of the company assigned certain of its engineering personnel to the duties normally performed by production or maintenance employees during the period of the strike in order that operations could be continued, even on a reduced basis.

Question:

Is it consistent with the Code of Ethics for engineers to perform nonprofessional duties during a strike of production and maintenance employees?

References:

Code of Ethics--Section 1- "The Engineer will be guided in all his professional relations by the highest standards of integrity, and will act in professional matters for each client or employer as a faithful agent or trustee."

Section 1(f)-"He will not actively participate in strikes, picket lines, or other collective coercive action."

Section 2-"The Engineer will have proper regard for the safety, health, and welfare of the public in the performance of his professional duties. If his engineering judgment is overruled by non-technical authority, he will clearly point out the consequences. He will notify the proper authority of any observed conditions which endanger public safety and health."

Section 2(a)-"He will regard his duty to the public welfare as paramount."

Discussion:

The cited sections of the Code of Ethics are general admonitions of the primary duty of an engineer to serve and protect the public health and safety, and to be a faithful agent of his employer. Section 1(f) carries forward this concept by proscribing participation in strikes, picket lines, or other collective coercive action, as such activity would normally conflict with the duty to protect the public health and safety or to be a faithful agent of the employer.

We are not advised in the facts before us as to the extent that a shutdown or slowdown of production of the oil company would adversely affect public health and safety. It is entirely conceivable that a disruption of production could have that effect, depending upon many variables such as the availability of petroleum products from other sources,

the extent of the shutdown or slowdown, the particular distribution of the products of the company, the duration of the shutdown or slowdown, and others.

Some guidance can be gleaned from NSPE Professional Policy No. 68:

"The engineer is ethically obligated to protect the public; therefore, he may properly assume the duties of non professional workers involved in labor disputes in those cases where the assumption of such duties is for the protection of the health and safety of the public or the security of the nation."

This policy, of course, refers specifically to ". . . those cases where assumption of such duties is for the protection of the health and safety of the public or the security of the nation." As indicated above, we are not in a position to evaluate the application of that premise to the facts of the case.

We can and do conclude that under the concepts of Sections 1, 2, and 2(a) of the code, engineers who believe that their assumption of nonprofessional duties under the stated circumstances is necessary to protect the public health and safety or the national security may ethically perform such nonprofessional duties during a temporary period of a strike.

Section 1(f) of the code is directed toward the conduct of an engineer who participates in a strike-the opposite of the situation before us. However, it may logically lead to the thought that the reverse (or affirmative) duty of the engineer is to do what he can to prevent a strike from interfering with normal operations of his employer. We do not need go so far as to hold that an engineer has an affirmative duty to perform any and all nonprofessional services during a strike. The cited NSPE policy states that nonprofessional work is justified "where assumption of such duties is for the protection of the health and safety of the public or the security of the nation." In fact, we believe he has an ethical duty to perform such services when the health and safety of the public or the security of the nation is at stake.

We find in Section 1 of the code that the engineer is a faithful agent or trustee of his employer. We interpret this to extend the ethical obligation of the engineer to assist the employer by rendering such services as may be necessary to effect an orderly shutdown or maintenance of minimum operations in order to minimize permanent damage to plant facilities.

Conclusion*:

It is consistent with the Code of Ethics for engineers to perform nonprofessional duties during a strike of production and maintenance employees under the circumstances stated in the discussion.

***Note-**This opinion is based on data submitted to the Board of Ethical Review and does not necessarily represent all of the pertinent facts when applied to a specific case. This opinion is for educational purposes only and should not be construed as expressing any opinion on the ethics of specific individuals. This opinion may be reprinted without further permission provided that this statement is included before or after the text of the case.

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.

BOARD OF ETHICAL REVIEW: Frank H. Bridgers, P.E., C. C. Hallvik, P.E.; James D. Maloney, P.E.; Sherman Smith, P.E.; Kurt F. Wendt, P.E.; Albert L. Wolfe, P.E.; T. C. Cooke, P.E., chairman.