

Report on a Case by the Board of Ethical Review

Case No. 87-5

Gift—Complimentary Seminar Registration

Facts:

The ABC Pipe Company is interested in becoming known within the engineering community and, in particular, to those engineers involved in the specification of pipe in construction. ABC would like to educate engineers about the various products available in the marketplace: the advantages and disadvantages of using one type of pipe over another. ABC sends an invitation to Engineer A, as well as other engineers in a particular geographic area, announcing a one-day complimentary educational seminar to educate engineers on current technological advances in the selection and use of pipe in construction. ABC will host all refreshments, buffet luncheon during the seminar, and a cocktail reception immediately following. Engineer A agrees to attend.

Question:

Was it ethical for Engineer A to attend the one-day complimentary educational seminar hosted by the ABC Pipe Company?

References:

Code of Ethics - Section II.4.c. - "Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients for which they are responsible."

Section III.5.b. "Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the Engineer in connection with work for which the Engineer is responsible."

Section III.11.a. "Engineers shall encourage engineering employees' efforts to improve their education."

Discussion:

Ethical concerns relating to the issue of gifts and other consideration provided by suppliers to engineers are addressed in several sections of the NSPE Code. Obviously, instances where gifts or other property of monetary value are exchanged between an engineer and a potential client are extremely sensitive and do require careful scrutiny to determine if such exchanges are proper. In the past, this Board has examined the question from two perspectives: (1) where an engineer provides a client with a gift or valuable consideration under circumstances that could create the appearance of seeking to influence the client's judgment, and (2) where a supplier provides the engineer with a gift or valuable consideration under circumstances that could create an appearance that the supplier was seeking to influence the engineer's judgment. The instant case relates to the latter situation.

In Case 60-9 the Board examined a situation involving certain engineering employees of an industrial firm who were in a position to recommend for or against the purchase of products used by the company. They regularly received cash gifts ranging from \$25 to \$100 from product salesmen. In ruling that accepting those gifts was not ethical, the Board noted that an occasional free luncheon or dinner, and a Christmas or birthday present when there is a personal relationship, are acceptable practice. On the other hand, cash payments to those in a position to influence decisions favorable or unfavorable to the giver are not in good taste and do immediately raise the suspicion of an ulterior motive.

More recently, in Case 81-4, this Board dealt with three engineers who were principals or employees of a consulting engineering firm that did an extensive amount of design work for private developers. The engineers were involved in recommending to the developers a list of contractors and suppliers to be considered for selection on a bidding list for construction of some projects. Usually, those the engineers recommended obtained most of the contracts from the developers. Over a period of years, the officers of the contractors or suppliers developed a close business and personal relationship with the engineers. From time to time, at holidays or on the engineers' birthdays, the contractors and suppliers would give them personal gifts of substantial value, such as house furnishings, recreational equipment, or gardening equipment. In finding that it was unethical for the engineers to accept those gifts, we stated that engineers should "lean over backward" to avoid acceptance of gifts from those with whom they, or their firm, do business.

At that time, the Board again noted that there may be circumstances when a gift is permissible, as stated in Case 60-9, and does not compromise the engineer's independent professional judgment.

The Code unequivocally states that engineers must not accept gifts or other valuable consideration from a supplier in exchange for specifying its products. (See Sections II.4.c.; III.5.b.) However, in this case we are dealing with a material supplier who is introducing information about pipe products to engineers in the community and has chosen the form of an educational seminar as its vehicle. While ABC Pipe Company will seek to present its particular products in a favorable light and point out their many advantages over others', a complimentary invitation to such a seminar would not reach the level that would raise an ethical concern. The earlier decisions and the pertinent provisions of the Code relate more to the circumstances in which valuable gifts are received and at least create the appearance of a "quid pro quo" or an exchange of valuable consideration for specifying the equipment. Under the facts of this case, Engineer A is accepting an opportunity to become educated on a particular topic consistent with Section III.11.a. of the Code. He would be attending the seminar with many of his colleagues, and there is no suggestion in the facts that anyone at ABC Pipe Company would personally seek to persuade Engineer A to specify its products.

We view the buffet luncheon and cocktail reception immediately following the seminar as falling within the de minimis provisions noted earlier in Cases 60-9 and 81-4, and thus it would not be improper for Engineer A to participate in those activities. We note, however, that had Engineer A agreed to accept items of substantial value (e.g., travel expenses, multi-day program, resort location, etc.) our conclusion would have been quite different.

Conclusion:

It was ethical for Engineer A to attend the one-day complimentary educational seminar hosted by the ABC Pipe Company.

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