



NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS

BOARD *of* ETHICAL REVIEW



CASE REVIEW:

Review of Other Engineer's Work

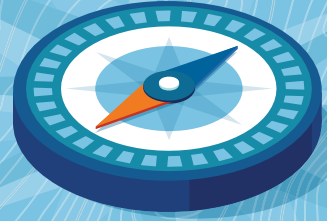
CASE NO. 22-3
APPROVED NOVEMBER, 2022

NSPE.ORG



NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS

BOARD of ETHICAL REVIEW



REVIEW OF OTHER ENGINEER'S WORK

CASE NO. 22-3

APPROVED 11/22

FACTS:

Client A is a city which receives consulting engineering services from a selected private firm. The contract runs for 3 years. Engineer B is currently hired under these contract terms and is in the final year of the 3-year contract. The City Administrator leads the effort for the city to coordinate the work of Engineer B. The City Administrator will also be heavily involved in the effort to select the consulting firm for the next 3-year contract. The City Administrator has questioned the judgment of Engineer B on several occasions during the contract period. The City Administrator also has previous experiences with a competing firm, Engineer C. The City Administrator contacts Engineer C to question him on specific issues Engineer B has worked on for the City. Engineer C fully realizes that answering these questions in a certain perspective would be a pretext to gaining an advantage in the competition for the next 3-year contract. Engineer C answers the City Administrator's questions on the specific issues and is critical of Engineer B's decisions.

QUESTION:

Is Engineer C's answering of the City Administrator's questions and his criticism of Engineer B ethical?

NSPE CODE OF ETHICS REFERENCES:

Professional Obligation III.6

Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

Professional Obligation III.7.

Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

Professional Obligation III.7.a.

Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.

NSPE BER CASE REFERENCES:

[93-3](#), [01-1](#)

DISCUSSION:

Competition for engineering work by private consulting firms can be quite intense. Selection of a winning proposal may be made on razor-thin margins. Competitive edges are sought to win work over other firms. The potential benefit of stretching ethical bounds to achieve a competitive edge may seem to merit consideration.

In this case, Engineer C has criticized the work of another engineer, Engineer B. Further, Engineer C voiced this criticism while Engineer B was still under contract with Client A, and Engineer C may not have known all

the circumstances under which Engineer B performed his work as Engineer C was not involved in Engineer B's decision-making process.

NSPE Code of Ethics Section III.6 states that Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods. Engineer C could be truthful, as far as C is aware, in this conversation. However, Engineer C's statements may not be accurate since C might not know all the circumstances. As such, Engineer C's conversation with Client A could easily be seen as improper and questionable since, during the conversation with the City Administrator, Engineer C was not fully cognizant of Engineer B's situation.

In [BER Case 93-3](#), Engineer A was retained by a major franchiser to provide engineering design services for a chain of stores throughout the United States. After several years, the franchiser decided to terminate its relationship with Engineer A and provided Engineer A of notice of its intent not to renew its contract with Engineer A's firm. In order to maintain continuity and before the contract expired, the franchiser began discussions with Engineer B and retained Engineer B to provide immediate review of design concerns. Prior to the review, franchiser specifically told Engineer B not to disclose to Engineer A, Engineer B's relationship with franchiser. Nevertheless, Engineer B notified Engineer A of his relationship with franchiser and the preliminary results of his review. The BER in this case determined that Engineer B's act of notifying Engineer A of his relationship with franchiser was not consistent with the Code stating that Engineer B had an obligation as "faithful agent and trustee" to not to tell Engineer A of his relationship with the client. [Case 93-3](#) differs from the current case as Engineer C in the present case is not under contract with Client A.

In [BER Case 01-1](#), the BER reviewed a situation where Engineer A left Firm X to start a new Firm Y. Engineer A also contacted another engineer from Firm X, Engineer C, to convince them to join Firm Y. Thereafter, Engineer A contacted clients of Firm X to convince them to contract with the new firm since the old firm would be “hard-pressed” to continue to perform services adequately without Engineers A and C. The BER found that it was not ethical for Engineer A to make such representations as these methods were questionable and improper. Section III.7 states that Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. For this reason, in the present case, using the situation to Engineer C’s advantage could be perceived the same way.

In the present case, Engineer C has been put in a difficult position by Client A. Engineer C has been asked to evaluate another engineer’s work, which in turn could give Engineer C a significant advantage in securing future work. Two sections of the Code of Ethics provide guidance for Engineer C’s response: 1) Engineers shall not attempt to obtain advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods, and 2) Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional practice of other engineers. Not being fully aware of the circumstances of Engineer B’s decisions could result in Engineer C giving an opinion that is not accurate, even though C feels that the opinion is truthful. Engineer C should have refrained from any criticism. While Engineer C could answer Client A’s questions in a very general sense, C should have avoided commenting on specific issues.

Further, the Code states engineers in private practice shall not review the work of another engineer for the

same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated. In the present case, Engineer B had no knowledge of Client A’s conversation with Engineer C. Additionally, Engineer B is still under contract with Client A; the contract has not been terminated.

CONCLUSION:

In answering the City Administrator’s specific questions and by criticizing the work of Engineer B, Engineer C’s action were unethical.

Board of Ethical Review:

Jeffrey H. Greenfield, Ph.D., P.E., F.NSPE

David J. Kish, Ph.D., P.E. (Chair)

William D. Lawson, Ph.D., P.E., F.NSPE

Kenneth L. McGowan, P.E., F.NSPE

Craig N. Musselman, P.E., F.NSPE

Hugh Veit, P.E. (retired)

NOTE: The NSPE Board of Ethical Review considers ethical cases involving either real or hypothetical matters submitted to it from NSPE members, other engineers, public officials, and members of the public. The BER reviews each case in the context of the NSPE Code of Ethics and earlier BER opinions. The facts contained in each case do not necessarily represent all of the pertinent facts submitted to or reviewed by the BER.

Each opinion is intended as guidance to individual practicing engineers, students, and the public. In regard to the question of application of the NSPE Code of Ethics to engineering organizations (e.g., corporations, partnerships, sole proprietorships, government agencies, and university engineering departments), the specific business form or type should not negate nor detract from the conformance of individuals to the Code. The NSPE Code deals with



professional services, which must be performed by real persons. Real persons in turn establish and implement policies within business structures.

This opinion is for educational purposes only. It may be reprinted without further permission, provided that this statement is included before or after the text of the case and appropriate attribution is provided to the National Society of Professional Engineers' Board of Ethical Review.

To obtain additional NSPE opinions, visit www.nspe.org or call 888-285-NSPE (6773).