

Report on a Case by the Board of Ethical Review

Case No. 63-1

Subject: Hiring Employee of Another Firm

Canon 14-Canons of Ethics; Rule 62-Rules of Professional Conduct.

Facts:

Engineer A had an employee for approximately four and one-half years, during which time the employee progressed from a draftsman to a designer. The employer anticipates that through additional training and experience the employee will continue to progress. Engineer B, in the same geographical area, contacted the employee of "A" directly and without notice to Engineer A, offering the employee a job in B's firm. The employee accepted the offer, and, after giving Engineer A two weeks notice, left to work for Engineer B.

Question:

Did Engineer B act unethically?

References:

Canons of Ethics-Canon 14- "He will disclose no information concerning the business affairs or technical processes of clients or employers without their consent."

Rules of Professional Conduct Rule 62-"He will not attempt to attract an engineer from another employer by methods such as offering unjustified salaries or benefits."

Discussion:

Under the stated facts and applicable Canon and Rule, we are compelled to the conclusion that there has not been a violation of the Canons or Rules. There is no information or inference that the employee would be expected to disclose the business affairs or technical processes of his former employer to his new employers. Nor is there any basis for believing that Engineer B offered the employee an unjustified salary or other benefits.

The Foreword of the Canons is not an applicable Canon, in a pure sense, but it sets the tone of philosophy which should guide the professional engineer in all of his relationships. The Foreword states, in part, that "Honesty, justice and courtesy form a moral philosophy which, associated with mutual interest among men, constitutes the foundation of ethics." In this situation, the key word is "courtesy," which has a dictionary meaning of "courtly politeness, graceful and considerate behavior toward others."

Engineer B's action did not comport with the concept of courtesy in that he was not considerate of Engineer A's interest. While he had the undoubted legal right to bypass Engineer A in contacting the employee with a job offer, by so doing he was discourteous to a fellow engineer even though not unethical under the Canons as written. We

suggest that he had a duty to "courtesy" to discuss with Engineer A his interest in securing the services of the employee. Having taken this step, as a matter of courtesy, he would still be free to proceed with his offer to the employee, even over Engineer A's objections.

NSPE Professional Policy 19 (a), "Freedom of Employment," recognized the right of an individual professional engineer to seek and accept other employment in accordance with the Canons and Rules. The same right, both legal and moral, undoubtedly applies to employees other than professional engineers. Hence, it should be emphasized that in the foregoing discussion there is no criticism intended of the employee, nor should there be any thought that adherence to ethical concepts or acts of courtesy between professionals means that there exists or should exist an "understanding" that an employee will not be hired from another professional without the consent of the present employer. Such arrangements would constitute an objectionable practice.

Conclusion:

Engineer B did not act unethically, but his conduct was discourteous to a fellow engineer.

Board of Ethical Review: P. T. ELLIOTT, P.E. A. C. KIRKWOOD, P.E. W. S. NELSON, P.E. M. C. NICHOLS, P.E. E. K. NICHOLSON, P.E. N. O. SAULTER, P.E. L. R. DURKEE, P.E., Chairman