

Report on a Case by the Board of Ethical Review

Case No. 74-6

Engineering and Non-engineering Services by Same Firm

Facts:

An engineering firm controlled by Engineer A is engaged primarily with professional services for subdivision development, including particularly the furnishing of surveying and related services, and also engages in the title insurance business. The firm indicates that its services are secondary and primarily are carried on as a basis to secure title insurance business. Engineer B's firm, which is engaged in essentially the same kind of professional practice for subdivision development, has proposed to enter into a joint venture with a separate title insurance company in order to compete by offering a complete package service to developers.

Question:

Is it ethical for an engineer to provide under his own name or by a joint venture arrangement both engineering services and title insurance services?

References:

Code of Ethics-Section 3-"The engineer will avoid all conduct or practice likely to discredit or unfavorably reflect upon the dignity or honor of the profession."

Section 8(a)-"The engineer will inform his client- or employer of any business connections, interests, or circumstances which may be deemed as influencing his judgment or the quality of his services to his client or employer."

Section 10-"The engineer will not accept compensation, financial or otherwise, from more than one interested party for the same service, or for services pertaining to the same work, unless there is full disclosure to and consent of all interested parties."

Discussion:

We assume for the purpose of this case that the firm of Engineer A has on its staff or has arrangements with other persons qualified to provide the necessary expertise and experience for the title insurance portion of its activities. This consideration is apparent for the firm of Engineer B by virtue of its intention to have the title insurance work handled by a presumably qualified title insurance company. It is well recognized that engineers may engage in commercial activities in addition to those of a purely engineering nature, ranging from owning an equity interest in a commercial enterprise to being the sole proprietor of a separate business which may or may not be related to engineering activities. Thus, we find engineers providing both engineering services and selling building materials, installing equipment, renting excess computer time, and a host of similar services and products.

The code imposes a primary duty in such cases by the requirement of Section 8(a) that the engineer inform his client of these kinds of business connections or interests which may be considered as possibly influencing his judgment or the quality of the engineering services. Likewise, the concept of full disclosure when different services are provided in connection with a single project is embodied in Section 10 of the code. Applying these principles to the case at hand, it is apparent that in either fact situation it is absolutely necessary that Engineers A and B advise their respective clients fully of their relationships with the title insurance business.

Even if such full disclosure is furnished, however, we believe it is pertinent to repeat an observation made in Case 68-5: ". . . we do not perceive that an engineer may not go into business apart from engineering services insofar as the Code of Ethics is concerned. We are constrained to observe, however, that it is poor practice for an engineering firm to operate a commercial business under the name and title of an engineering firm. If this is to be done it should be through a separate identity to avoid confusion as to the nature of the firm's operations and area of professional practice."

Our comments in the earlier case were in the form of suggestions or observations which we think it appropriate to reaffirm here. Non-engineering commercial services on the same project or services closely related to the same project should not be provided by the engineer or firm under its own name identified with engineering services. This is not to preclude an engineer or firm from furnishing such non-engineering commercial services, but rather to avoid questions or suspicions which may reflect adversely on the entire profession. These comments may raise difficult questions of interpretation as between non-engineering commercial services and engineering services in view of the broad nature and diversity of engineering practice, but the guiding criteria can be found in the application of the definition of the practice of engineering under the state engineering registration laws.

Conclusion:*

It is ethical for an engineer to provide both engineering services and title insurance services under his or her own name or by a joint venture arrangement. It is suggested, however, that the title insurance services be offered through a separate identity.

***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.

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