

## **Report on a Case by the Board of Ethical Review**

### **Case No. 82-3**

#### **Recruitment—Finder's Fee**

##### **Facts:**

Engineer A received an unsolicited letter and explanatory material from a commercial firm engaged in manpower placement, offering a monetary bonus to Engineer A if he provided names of qualified engineers (and other technical disciplines listed in the brochure) who were subsequently employed by others through the services of the commercial firm. The amount of bonus was indicated as ranging from \$1000 (designers, specifications writers, estimators) to \$5000 (chief engineer, director of projects, etc.). Engineers, as such, were listed as worth a \$2000 bonus. The covering letter stated that there were presently openings for this type of personnel in several client companies of the placement firm. It further stated that these prospective employers offer highly competitive salaries and liberal benefit packages. Engineer A has submitted the case for comment on the ethical aspects of this type of personnel operation, recognized in the solicitation letter of the commercial firm as "a highly novel approach to personnel recruitment." Although the facts submitted do not so state, we assume for the purposes of this case that the prospective employer firms have indicated a willingness to employ engineering personnel under the described method, and that in doing so have agreed to pay through the commercial firm the amount of the bonus in addition to other fees charged by the commercial firm.

##### **Question:**

Would it be ethical for Engineer A to submit names of prospective employees under the described method?

##### **References:**

Code of Ethics Section III.1.d. "Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses."

Section III.1.f. "Engineers shall avoid any act tending to promote their own interest at the expense of the dignity and integrity of the profession."

##### **Discussion:**

We previously considered in Case 68-4 a similar set of facts; the main difference being, however, that the solicitation was directly from an engineering firm to engineers employed in another firm, but without any offer of bonus or other special payments to either the engineers being contacted or the present employer.

At the time we considered Case 68-4 the pertinent Code provision stated that an engineer will not attempt to attract an engineer from another employer "by unfair methods." The discussion of that case commented on the lack of definition of "unfair." The present Code provision, quoted above, turns away from the "unfair" test and in its place relies upon the use of "false or misleading pretenses."

Our conclusion in Case 68-4 was to the effect that the facts did not warrant a finding of unethical conduct, but we noted that an effort by one engineering firm to attract employees away from their present employer without any indication of interest from those employees "is not in keeping with desirable professional standards and the proper relationship between firms within the profession."

We further commented in that case that this type of activity should be judged under a concept of professional courtesy, and that the proper concept should be to use recruitment procedures whereby an employed engineer takes the initiative in making contact with other prospective employers, either directly or by responding to advertisements or other similar means of recruitment interest.

In a related subsequent case (69-3) we held that it was ethical for an engineering organization to solicit new employees through use of a management consulting firm, which distributed an outline of job specifications for the client firm (without disclosing its name) inviting the recipient organization to advise if they knew of anyone meeting the specifications who might be interested in such openings for employment. We noted in that discussion, however, that the conclusion might have been different if the prospective employer or its agent (the management firm) had sought to induce an employee away from his present employment.

In a still further related case (69-5) we held that it was unethical for engineers in a company to accept a bonus offered by the employer to any engineer who submitted the names of other engineers employed elsewhere and who were hired by the company as a result of the reference. In reaching that conclusion, we stated that the method used came very close to the "pirating" of engineers by competing employers. "The concept of paying a bonus to engineering employees to induce, entice, or encourage other engineers away from their current employment has the ring of commercialism. It goes beyond the concept of an engineer-employee being a faithful agent of his employer."

In all of these cases we have emphasized that employed engineers have the absolute right to change employment as desired and that nothing in the Code attempts to restrict that right. But our basic approach in dealing with these "fine line" cases has been that whatever method of recruitment is used the initiative for the change in employment should come from the employed engineer.

In the case before us we deal only with the ethics of Engineer A in accepting or declining to submit names of prospective employees in return for monetary benefit to him.

Applying the ethical principles set forth in the earlier cases to this particular set of facts, we cannot find that there are any "false or misleading" statements in the solicitation literature, or that Engineer A would be guilty of "false or misleading pretenses" if he went along with the scheme to obtain the bonus.

We continue to look with disfavor on a procedure that lends itself to a less-than-professional approach to professional employment. We recognize the competitive aspects of personnel recruitment among firms, but nevertheless adhere to our view that a proper professional relationship calls for a change in employment initiative to come from the employee and that such decisions not be the subject of outside inducements or the tawdry Case 82-3 use of financial bonuses to those who engage in a form of "flesh peddling" for monetary gain.

For Engineer A to be a party to this kind of arrangement for monetary benefit would constitute an act on his part for his own interest. Whether that act would be at the expense of the dignity and integrity of the profession may be in the "gray" area, but we think that the ulterior motive coupled with what is at best a questionable practice would tend to expose the engineering profession to an unfortunate perception: that its members are willing to sacrifice the principles noted above for selfish gain, and thereby create an image of participation in a form of "flesh peddling" whereby engineers are treated as objects rather than on their own professional merits, and who are motivated by their own initiatives as to employment opportunities.

**Conclusion:**

\*It would be unethical for Engineer A to submit names of prospective employees under the described method.

\*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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