

## **CONFRONTING FORMER EMPLOYEE FOR IMPROPER CONDUCT**

### **Case No. 00-4**

#### **Facts:**

Engineer A is a small business owner. Engineer B, a licensed engineer formerly employed by Engineer A's firm, makes calls to Engineer A's employees (at home and at work) requesting that they make him copies of their company's proprietary schematics. Engineer B's request specifically instructs these individuals to not mention these conversations to Engineer A. Engineer A's employees alert Engineer A to the problem. However, Engineer A is concerned about Engineer B's activities and the potential threat these requests could have on the health of Engineer A's company (if their proprietary information were to fall into competitor's hands).

Engineer A confronts Engineer B at a seminar and, in front of many other engineers, architects, contractors, clients, and others, and makes several accusations and angry comments to Engineer B. Engineer B denies the accusations, and both Engineer A and B exchange a series of derogatory comments. Following this exchange, Engineer A and Engineer B both leave the seminar.

#### **Questions:**

1. Was it ethical for Engineer B to contact Engineer A's employees?
2. Was it ethical for Engineer A to confront Engineer B in the manner described?

#### **References:**

- Section I.6. - Code of Ethics: *Conduct themselves honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and usefulness of the profession.*
- Section II.1.e. - Code of Ethics: *Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.*
- Section III.7. - Code of Ethics: *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.*
- Section III.8.a. - Code of Ethics: *Engineers shall conform with state registration laws in the practice of engineering.*

**Discussion:**

The facts in the subject case are somewhat unique. The NSPE Board of Ethical Review (BER) has not had occasion to address facts and circumstances of the type described. Among the cases that have addressed situations somewhat analogous to the subject case was BER Case No. 96-3, where Engineer A, employed by Firm X, left Firm X and went to work for Firm Y, a competitor. A project on which Engineer A was in responsible charge was virtually completed, but Engineer A did not sign or seal the construction documents before leaving Firm X's employment. Engineer B, a principal in Firm X, requested that Engineer A sign and seal the drawings. Engineer A refused to sign or seal the construction documents unless Firm X paid Engineer A an additional fee. In ruling that Engineer A's conduct was not ethical, the Board noted that "engineers who work for one firm and then move on to another firm are not released from this professional responsibility. The work that they performed for their previous employer is no less their work because they no longer have a direct relationship with that firm. Once a professional renders professional services on behalf of a client, the professional is duty bound to make certain that the work is done in a responsible and professional manner and that the client's interests are protected and preserved."

These basic ethical and legal principles are easily extended to the facts and circumstances in the subject case. Clearly, Engineer B's conduct is well beyond the pale of ethical conduct and Engineer B should be condemned for his actions. To make calls to Engineer A's employees at home and at work requesting that they make him copies of their company's proprietary schematics is more than an ethical violation – it is a legal violation.

There can be no doubt that Engineer A had justification for being angry and upset over Engineer B's actions. And it is easy to see how at the seminar Engineer B would have taken the actions he took under the circumstances presented. However, it is the view of the Board that Engineer A's actions in confronting Engineer B in the manner indicated was not ethical or professional. It is clear that there were other reasonable options for Engineer A to explore. Among these would include a direct conversation with Engineer B over Engineer B's actions and, if necessary, a letter from Engineer A (or Engineer A's attorney) demanding that Engineer B cease and desist from continuing his improper actions, or else face legal consequences.

Oftentimes, engineers are confronted with unprofessional and unethical conduct by others, including actions of other engineers. However, all engineers need to be mindful that their actions and conduct – good and bad – in response to such unprofessional and unethical conduct reflect upon the entire profession, and help to shape the public's image and impression of engineers and engineering.

**Conclusions:**

1. It was not ethical for Engineer B to contact Engineer A's employees.
2. It was not ethical or professional for Engineer A to confront Engineer B in the manner described. Also, it was not professional for Engineer B to engage in derogatory language at the seminar.

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