REFERENCE – QUID PRO QUO

Case No. 01-9

Facts:
Engineer A is licensed in State A, and State B and would like to become licensed in State C. State C requires a recommendation of three licensed professional engineers licensed in any state. Because Engineer A has worked for many years in a company with no other licensed engineers, Engineer A has not had very much exposure to licensed professional engineers. Engineer A is able to obtain the recommendations of two licensed engineers. His colleague, Engineer B, was licensed but has allowed his license to lapse. Engineer B knows Engineer A well and respects Engineer A's professional judgment. Engineer A offers to pay Engineer B to have Engineer B's license reinstated with the understanding that he will prepare a recommendation for Engineer A.

Question:
Was it ethical for Engineer A to offer to pay Engineer B to have Engineer B's license reinstated with the understanding that Engineer B will prepare a recommendation for Engineer A?

References:

Section II.3.a.	-	*Code of Ethics:*	*Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.*
Section II.3.c.	-	*Code of Ethics:*	*Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.*
Section II.4.c.	-	*Code of Ethics:*	*Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.*
Section III.1.e.	-	*Code of Ethics:*	*Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.*

Discussion:
Engineering licensure is an important element to the provisions of the NSPE Code of Ethics and earlier opinions of the NSPE Board of Ethical Review. In addition, the ethical obligations relating to the provision of personal recommendations has been discussed in earlier Board opinions. In either of these situations, complete honesty and truthfulness are critical to the integrity of the process. These qualities are necessary for the protection of employers and clients interests, as well as the public health and safety.

In BER Case No. 72-4, engineer Adams withheld his recommendation that his former employee, engineer Edwards, be licensed and he submitted unfavorable comments on Edwards' character to the State licensure board, this because Edwards had entered into a pre-arranged relationship with another engineer, Barton, to supplant Adams from an engineering project. In determining that

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Adams' actions in withholding his licensure reference were ethical, the Board noted that Adams had a duty to inform the licensure board of his knowledge of Edwards' unethical act, and that licensure boards rely on accurate reference information in their deliberations about whether to issue an engineering license to an applicant.

In BER Case No. 77-7, Engineer Smith was being considered for promotion by his employer to a higher-level professional position. The employer contacted other engineers who had worked previously with Engineer Smith for their comments. One of these was Engineer Doe, who was currently employed by another company and who did not have any current direct professional relationship with Engineer Smith. Engineer Doe replied to the employer that he would not submit a comment on Engineer Smith's qualifications or engineering competence because Engineer Smith had dropped his membership in the state professional engineering society. Engineer Doe stated that, in his view, it was professionally incumbent on all engineers to support their profession through membership in the professional society, preferably in an active role, or at least by payment of society dues. Engineer Smith alleged that Engineer Doe did not act ethically in submitting that reply to the employer. In agreeing with Engineer Smith that Engineer Doe did not act ethically, the Board first noted that there is nothing in the NSPE Code which directly or indirectly imposes a duty on an engineer to write a letter or otherwise comment on the qualifications of other engineers. The Board also stated that an engineer may ethically decide to ignore a request for personal comment on the attributes or qualities of others.

The controlling question was whether Engineer Doe acted contrary to the NSPE Code's injunction not to injure the prospects of another engineer by the tone and nature of his comment to Engineer Smith's employer." The Board concluded — with some reluctance in view of the Board's strong agreement with the concept of support of engineering societies by individual engineers — that Engineer Doe had done Engineer Smith an injustice, from an ethical standpoint, in submitting negative comments while taking the position that he did not wish to comment on Engineer Smith's qualifications. The point is that reference statements *do* matter and carry significant ramifications for all affected parties.

BER Case No. 99-12 discusses how Engineer B, a graduate engineer in a large-sized engineering firm, requested a licensure reference from Engineer A, a principal in the firm, under the assumption that Engineer A had personal knowledge of Engineer B's work. Engineer A's approach was to inquire about Engineer B's experience from someone who had direct knowledge of Engineer B's work, and write a letter of reference explaining the professional relationship between A and B. In finding that Engineer A's action was ethical, the Board noted that Engineer A sent Engineer B the right message about what is expected of professional engineers; namely, an honest and conscientious response that fairly reflects the data.

The Board believes that these three cases offer a consistent theme: that reference statements are highly important elements of the licensure process and the integrity of this process must be maintained. Thus the engineer who writes a reference statement has an ethical duty to fairly and accurately characterize both his/her relationship to the applicant as well as his/her knowledge of

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the applicant's competence. Improper conduct relating to the preparation of references used in order to advance a professional career is not ethically acceptable, and the appearance of improper conduct must be guarded against. In the present case, Engineer A seeks to use what on the surface appears to be an innocuous method (paying Engineer B's licensure renewal fees) to qualify Engineer B in order to permit Engineer B to submit a reference for Engineer A. While the facts imply that Engineer A is probably qualified for licensure, the Board believes that Engineer A's approach at getting a reference from Engineer B presents a clear ethical violation. This is because regardless of Engineer A's qualifications and Engineer B's opinion of Engineer A's professional ability, there is a clear appearance of a "quid pro quo" (i.e., something for something) in connection with the reference and the payment. While the Board certainly recognizes the importance of engineering licensure and the desire of those to qualify under the requirements of state law, professional licensure must be accomplished in accordance with basic ethical principles and concepts, and not achieved through the use of improper or unseemly methods. To permit an individual to secure engineering licensure by unduly seeking to gain the support of another as a result of questionable practices would seriously compromise the integrity of the engineering licensure process and violate basic ethical principles.

Without seeking to penalize Engineer A as Engineer Doe did in BER Case No. 77-7, the Board believes a more appropriate method for Engineer A to obtain a reference in connection with his licensure application in State C would be to become active in appropriate professional and technical groups. Through such activities, Engineer A could network with professional peers and possibly obtain an appropriate recommendation from such peers consistent with the requirements of the laws in State C.

Conclusion:
It was not ethical for Engineer A to offer to pay for Engineer B's licensure reinstatement with the understanding that Engineer B would prepare a recommendation for Engineer A.

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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 to engineering organizations (e.g., corporations, partnerships, sole-proprietorships, government agencies, university engineering departments, etc.), the specific business form or type should not negate nor detract from the conformance of individuals to the NSPE Code. The

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