Vendor's Payment of Engineer's Travel Expenses and Influence Over Engineer's Presentation at Educational Conference

Case No. 11-4

Facts:

Engineer A, who has expertise in sustainable design issues, is asked by a green building supplier to make a presentation at an industry educational conference on green building design and related sustainable design issues. Engineer A agrees to participate. Supplier offers to pay Engineer A's expenses and Engineer A accepts Supplier's offer. Engineer A shares a draft of his remarks with Supplier. Supplier then requests that Engineer A include within his slide presentation some slides that highlight some of the Supplier's green building products.

Questions:

1. Was it ethical for Engineer A to accept Supplier's offer to pay Engineer A's travel expenses?

2. Would it be ethical for Engineer A to include within his slide presentation some slides that highlight some of Supplier's green building products?

References:

Section II.3.b. - *NSPE Code of Ethics:* *Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.*

Section II.3.c. - *NSPE 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 III.2.c. - *NSPE Code of Ethics:* *Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.*

Section III.2.d. - *NSPE Code of Ethics:* *Engineers are encouraged to adhere to the principles of sustainable development[1] in order to protect the environment for future generations.*

[1] *"Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.*

Section III.5. - *NSPE Code of Ethics:* *Engineers shall not be influenced in their professional duties by conflicting interests.*

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Section III.5.a.	-	*NSPE Code of Ethics:*	*Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.*
Section III.7.c.	-	*NSPE Code of Ethics:*	*Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.*

Discussion:

Issues related to sustainable design and development is an area of increasing interest within the engineering profession. The professional practice of engineering has been greatly affected by evolving changes in federal, state, and local mandates; code requirements; technical standards; and changes in professional practice. Several years ago, after discussion and debate, the NSPE Code of Ethics was revised to add a new "Professional Obligation" (Section III.2.d.) encouraging engineers to adhere to the principles of sustainable development in order to protect the environment for future generations.

Not surprisingly, as with any new practice trend, professional practitioners, consultants, contractors, vendors, and other parties seek to distinguish themselves as knowledgeable and expert in this new area in order to obtain an advantage in the competitive market. Individuals and companies seek to gain credibility and highlight their ability to perform these services in a highly competent manner for the benefit of their clients. One effective marketing technique sometimes used by vendors is seminars that describe the products and services offered by the company.

The Board of Ethical Review has examined the related issue of complimentary seminar registration in BER Case No. 87-5. In that case, the ABC Pipe Company was interested in becoming known within the engineering community and, in particular, to those engineers involved in the specification of pipe in construction. ABC wanted to educate engineers about the various products available in the marketplace and the advantages and disadvantages of using one type of pipe over another. ABC sent an invitation to Engineer A, as well as other engineers in a particular geographic area, announcing a one-day complimentary educational seminar to educate engineers on current technological advances in the selection and use of pipe in construction. ABC hosted all refreshments, a buffet luncheon during the seminar, and a cocktail reception immediately following. Engineer A agreed to attend. The Board determined that it was ethical for Engineer A to attend the one-day complimentary educational seminar hosted by the ABC Pipe Company, noting that the case dealt with a material supplier who was introducing information about pipe products to engineers in the community and had chosen the form of an educational seminar as its vehicle. While ABC Pipe Company would seek to present its particular products in a favorable light and point out their many advantages over others', a complimentary invitation to such a seminar would not reach the level that would raise an ethical concern and there is no suggestion in the facts that anyone at ABC Pipe Company would personally seek to persuade Engineer A to specify

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its products. The Board viewed the buffet luncheon and cocktail reception as falling within the *de minimis* provisions noted earlier in BER Case Nos. 60-9 and 81-4, and, therefore, determined it was not improper for Engineer A to participate in those activities. Importantly, the Board noted that had Engineer A agreed to accept items of substantial value (e.g., travel expenses, multiday program, resort location), its conclusion may have been quite different.

In recent years, the Board has also examined the issue of sustainable development. For example, in BER Case 07-6, Examining Engineer A was a principal in an environmental engineering firm and was requested by a developer client to prepare an analysis of a piece of property adjacent to a wetlands area for potential development as a residential condominium. During the firm's analysis, one of the engineering firm's biologists reported to Examining Engineer A that in his opinion, the condominium project could threaten a bird species that inhabited the adjacent, protected wetlands area. The bird species was not an "endangered species," but it was considered a "threatened species" by federal and state environmental regulators.

In subsequent discussions with the developer client, Examining Engineer A verbally mentioned the concern, but he did not include the information in a written report that would be submitted to a public authority that was considering the developer's proposal. In its decision, the Board at that time decided that it was unethical for the engineer to not include the information about the threat to the bird species in a written report that would be submitted to a public authority that is considering the developer's proposal, and that Examining Engineer A should have included it in the written report and advised the client of its inclusion.

The Board noted that, as an environmental engineer in consultation with a qualified biologist, Examining Engineer A had technical knowledge concerning the matters in question. Moreover, said the Board, under NSPE Code Section II.3.a., engineers have an obligation to be objective and truthful in professional reports, statements, or testimony, and to include all relevant and pertinent information in such reports. It would be reasonable to assume that the public authority approving the development would be interested in this information. There did not appear to be any indication of an effort on the part of the client to treat the information as confidential. Examining Engineer A, therefore, had an obligation to include it in the written report and advise the client of its inclusion.

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Turning to the facts in the present case, it is clear from the earlier BER cases that the NSPE Code of Ethics and the earlier cases themselves place strong emphasis upon the importance that the public and the clients place on professional competence in the area of sustainable development. There was also a concern that an engineer's judgment could be compromised by a relationship with a vendor whose products or services could be specified by the engineer. As noted in BER Case No. 87-5, while accepting a *de minimis* gift may not rise to an ethical violation, accepting something of substantial value could raise a serious ethical question. In the present case, Supplier, the apparent organizer of the educational session, has offered to pay Engineer A's travel expenses. While this alone (depending upon the amount, meeting location, and other factors) may not amount to substantial value, this offer combined with Supplier's subsequent request that Engineer A include slides that highlight some of Supplier's green building products suggests an effort by Supplier to influence Engineer A's professional judgment in violation of the NSPE Code of Ethics.

Conclusions:

1. It was unethical for Engineer A to accept Supplier's offer to pay Engineer A's travel expenses.

2. It would be unethical for Engineer A to include within his slide presentation some slides that highlighted some of Supplier's green building products.

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