Report on a Case by the Board of Ethical Review

Case No. 61-5

Subject:
Competition for Engineering Employment
Canon 23-Canons of Ethics; Canon 25-Canons of Ethics.

Facts:
Engineer "A" has applied for an engineering position, has been interviewed and has been advised by the prospective employer that his application is being favorably considered. However, he has not been employed and no commitment has been made to him. Engineer "B" learns of the opening and, knowing that Engineer ."A" is under favorable consideration, applies to the employer for the same position. In presenting his qualifications, Engineer "B" does not refer to Engineer "A" in any way. Engineer "A" learns of Engineer "B's" action and alleges that he acted unethically in applying for the position knowing that he (Engineer "A") was under favorable consideration.

Question:
Did Engineer "B" act unethically in applying for a position knowing that another engineer was being favorably considered for the same position at that time?

References:
Canons of Ethics-Canon 23- "He will not directly or indirectly injure the professional reputation, prospects or practice of another engineer. However, if he considers that an engineer is guilty of unethical, illegal or unfair practice, he will present the information to the proper authority for action."

Canon 25-"He will not try to supplant another engineer in a particular employment after becoming aware that definite steps have been taken toward the other's employment."

Discussion:
Canon 23, read in its entirety, clearly relates to situations which may involve ethical or legal aspects of another engineer's background and conduct, and therefore the reference to avoiding injury to the "prospects" of another engineer is meant only in the ethical or legal sense. Under the facts of this case, there are no ethical or legal implications insofar as the past conduct of Engineer "A" is concerned.

Canon 25 would appear at first blush to restrict Engineer "B" in his action and make his conduct unethical. We do not believe its real meaning, however, goes so far as to prevent open and fair competition for an engineering position. In saying that an engineer should not attempt to "supplant" another engineer in particular employment, knowing that "definite steps" have been taken toward the other's employment, we believe the Canon refers to two particular elements which would make such action unethical: First, by "supplant" the Canon means a deliberate and conscious effort to bring about the

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rejection of the other applicant for the position by direct or indirect steps to make the employer believe that the engineer under consideration is not suitable or qualified. Second, the reference to "definite steps" having been taken toward the employment of the competing engineer means that the engineer has, in fact, been hired except for the final technical steps which may be considered necessary by the employer, such as security clearance, checking on references, or the drawing up of an employment contract, if one is involved.

It would have been unethical for Engineer "B" to deliberately seek to injure the prospects of Engineer "A" if the latter had been actually employed, except for the administrative steps mentioned above. In the facts as stated, however, Engineer "B" only sought to avail himself of an opportunity on his own merits and without improper prejudice as to the rights of Engineer "A".

Conclusion:
Engineer "B" did not act unethically in applying for a position under the circumstances stated.

Board of Ethical Review L. R. DURKEE, P. E. PHIL T. ELLIOTT, P. E. A. C. KIRKWOOD, P. E. MARVIN C. NICHOLS, P. E. EZRA K. NICHOLSON, P. E. PIERCE G. ELLIS, P. E., Chairman

Note: Member W. S. Nelson did not participate in the consideration or decision of this opinion.

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