Report on a Case by the Board of Ethical Review

Case No. 62-10

Exclusive Right to Serve Client

Facts:
The ABC Company has for many years been a client of Consulting Engineer "A" and this is generally and widely known in the community among engineers. Consulting Engineer "B" contacts the ABC Company, offers his services, describes his organization and its experience and leaves a brochure with a company official. His contact and offer of service is of a general nature, not in connection with any specific pending project.

Question:
Was it ethical for Engineer "B" to contact the ABC Company knowing of the relationship between the company and Engineer "A"?

References:
Canons of Ethics- 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…"

Rules of Professional Conduct-Rule 47-"He will not attempt to inject his services into a project at the expense of another engineer who has been active in developing it."

Rule 50- (1st paragraph) -"It shall be considered ethical for an engineer to solicit an engineering assignment, either verbally or written. Such solicitation may be in the form of a letter or a brochure setting forth factual information concerning the engineer's qualifications by training and experience and reference to past accomplishments and clients."

Discussion:
Neither the Canons nor the Rules grant an engineer an exclusive right to perform engineering services for a particular client. There can be no question but that the client has a right to change from one consulting engineer to another. The only question which can be raised, therefore, is whether another consulting engineer may make an initial contact with the client and offer his services.

Rule 50 expressly authorizes the solicitation of engineering assignments. This general authorization is modified by Canon 25 and Rule 47 only insofar as the solicitation of engineering assignments may not be in connection with a particular project for which another engineer has been engaged or definite steps have been taken toward the employment of another engineer. "Definite steps" means that the engineer has been informed by the client that he has been selected to negotiate an agreement for a specific

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project. (See Case 61-5 on the same principle involving an employer-employee relationship).

Rule 47 prohibits an engineer from injecting his services in connection with a specific project being developed by another engineer. This prohibition does not apply in the case of a general consultant-client relationship.

Conclusion:
Under the facts stated, Engineer "B" may ethically contact the client of Engineer "A" and offer his services for future projects.

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