Report on a Case by the Board of Ethical Review

Case No. 68-4

Pirating of Employees

Facts:
Engineering firm "A" sent to all engineers in engineering firm "B" a form letter reciting the history and policies of firm "A", concluding with the statement, ". . . we enclose for your consideration a summary of the aims and objectives of our firm, as well as the various advantages offered those who join us. We hope you will read it and perhaps refer to us those men whose professional philosophy matches our own." The enclosures referred to a 20-page booklet covering the history, aims, benefits, and rules of firm "A".

Question:
Is the recruitment of engineering personnel through the above-stated method consistent with the Code of Ethics?

References:
Code of Ethics-Section 1(e)- "He will not attempt to attract an engineer from another employer by unfair methods."

Section 9(d)-"When hiring other engineers, he shall offer a salary according to the engineer's qualifications and the recognized standards in the particular geographical area."

Section 11-"The Engineer will not compete unfairly with another engineer by attempting to obtain employment or advancement or professional engagements by competitive bidding, by taking advantage of a salaried position, by criticizing other engineers, or by other improper or questionable methods."

Section 15(e)-"He will provide a prospective engineering employee with complete information on working conditions and his proposed status of employment, and after employment will keep him informed of any changes in them."

Discussion:
One of the major problems of consulting engineering firms, and other employers of engineers, is the recruitment of qualified engineering personnel. For this purpose large amounts are expended in direct personnel advertising, recruitment teams to visit college campuses, payment of expenses for prospective employees to visit the offices of the prospective employer, participation in exhibits and conventions, and similar promotional techniques. We find nothing in the Code which prohibits this type of employee recruitment.

Copyright © 1968 National Society of Professional Engineer (NSPE) www.nspe.org . All rights reserved.
To request permission to reproduce this NSPE Board of Ethical Review Case, please contact the NSPE Legal Department (legal@nspe.org).

NSPE Professional Policy No. 19-B provides, in pertinent part, that, "An individual professional engineer has the right to seek and accept other employment in his field, provided the seeking and acceptance of such other employment is consistent with the Code of Ethics and the NSPE Rules of Professional Conduct as they pertain to relations with clients and employers." The policy also opposes any agreements between employers which limit the individual engineer's employment opportunities. It further provides, however, that before changing his employment the engineer should normally notify his employer of his desire and reason for a change of employment prior to seeking such other employment.

In this case, however, the initiative has not come from employees, but is rather a direct solicitation of them and to them by an outside employer, who may or may not be a direct competitor of their present employer. The Code references cited above do not deal directly with this point. Section 9(d) refers to the offering of appropriate salaries and there is nothing in the solicitation material from firm "A" which offers any specific or definite salary indication. Section 11 is pertinent only to the extent that the direct solicitation may be considered unfair competition by "improper or questionable methods." Section 11 is intended to cover the activities of engineers who themselves take the initiative to seek employment, advancement, or professional engagements. And Section 15(e) merely stipulates a duty on the part of the engineer-employer to provide complete information to the prospective employee. In part, at least, firm "A" has complied with this provision.

Section 1(e) prohibits the use of "unfair" methods to attract an engineer from another employer, but the word "unfair" is not defined or explained. We believe it must be construed in the context of the offer or the material submitted to prospective employees. Methods such as denigrating the present employer, or the use of other statements that make unjustified or unfavorable comparisons between the current employer and the prospective employer would clearly seem to be "unfair." On this interpretation we cannot conclude that firm "A" had been "unfair" in its approach to the employees of firm "B".

In the absence of any other specific Code provision to the contrary, we cannot find that firm "A" has acted unethically. It must, however, be recognized that relatively minor changes in the covering letter and the brochure used by firm "A" could make the firm guilty of using "unfair" methods of recruitment. We also express the view that this type of direct unsolicited contact with large numbers of employees of other firms who have not indicated any interest or desire to change employment is not in keeping with desirable professional standards and the proper relationship between firms within the profession. While not a matter of ethics per se, there is the matter of professional courtesy which, we believe, provides that direct approaches to personnel of another firm for purposes of recruitment be with the advance knowledge of or through his current employer. There is a narrow, but important, difference between general personnel recruitment advertising which reaches a large number of engineers and direct contact by correspondence or in person. In the first instance the advertiser firm is only making known its interest in hiring employees of a certain type. The contact which follows is

Copyright © 1968 National Society of Professional Engineer (NSPE) www.nspe.org . All rights reserved.
To request permission to reproduce this NSPE Board of Ethical Review Case, please contact the NSPE Legal Department (legal@nspe.org).

initiated by the interested prospective employee. In the latter case, however, the first contact is made by the soliciting firm in the context of an attempt to entice the employees away from their present employer.

In view of the fact that the Code does not presently contain any restriction on the type of direct employment solicitation indicated in this case, we will recommend to the NSPE Board of Directors that the NSPE Ethical Practices Committee be directed to consider whether a provision should be added to the Code on this point and also to define the meaning of "unfair" in Section 1(e).

Conclusion:*
The recruitment of engineering personnel through the method stated in this case is not a violation of the Code of Ethics.

•**Note**-This opinion is based on data submitted to the Board of Ethical Review and does not necessarily represent all of the pertinent facts when applied to a specific case. This opinion is for educational purposes only and should not be construed as expressing any opinion on the ethics of specific individuals. This opinion may be reprinted without further permission, provided that this statement is included before or after the text of the case.

BOARD OF ETHICAL REVIEW CASE REPORTS: The Board of Ethical Review was established to provide service to the membership of the NSPE by rendering impartial opinions pertaining to the interpretation of the NSPE code of ethics.

BOARD OF ETHICAL REVIEW: Frank H. Bridgers, P.E.; T.C. Cooke, P.E.; C.C. Hallvik, P.E.; Sherman Smith, P.E.; Kurt F. Wendt, P.E.; N.O. Saulter, P.E., chairman. Note: Member James Hallett was unable to participate in the consideration and decision of this case.

Copyright © 1968 National Society of Professional Engineer (NSPE) www.nspe.org . All rights reserved.
To request permission to reproduce this NSPE Board of Ethical Review Case, please contact the NSPE Legal Department (legal@nspe.org).