Report on a Case by the Board of Ethical Review

Case No. 79-7

Review of Original Engineer's Design

Facts:
Engineer A had been retained by the prime professional engineer to provide mechanical and electrical engineering services for a large housing project. The project was completed and occupied four years later, and Engineer A was fully paid for his services.

Approximately seven years after the original occupancy, ownership of the facility changed. The new owner informed Engineer A he had retained Engineer B to make an engineering inspection of the facility, and there were problems associated with the wiring. At the owner's request, a joint inspection of the wiring was made by the two engineers and the city wiring inspector. The inspection did not reveal any defects in the wiring.

The owner advised Engineer B of his complaint concerning the plumbing and heating systems. Engineer B thereafter conducted a further study and filed a report with the owner. The report noted there was no problem with the design of the plumbing system, but concluded there were design inadequacies in the original sizing of the equipment for hot water and heating. Engineer B recommended the installation of equipment of higher capacity.

Engineer A thereafter filed a complaint with the state engineering registration board alleging that Engineer B had acted improperly in that the report was not objective and did not include all pertinent information, and further alleged that the actions of Engineer B were self-serving at the expense of the dignity and reputation of Engineer A. Engineer A requested the registration board to find Engineer B guilty of "misconduct" in that Engineer B had obtained employment by a questionable method of criticizing Engineer A without his knowledge.

A question has been raised as to the ethical principles involved in this case.

Question:
On the basis of the summarized facts above, was Engineer B unethical in taking the assignment and in rendering the report to the owner?

References:
Code of Ethics - Section 12 - "The Engineer will not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of another engineer, nor will he indiscriminately criticize another engineer's work. If he believes that another engineer is guilty of unethical or illegal practice, he shall present such information to the proper authority for action".

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Section 12(a) - "An Engineer in private practice will not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated."

Discussion:
Before turning to a discussion of the ethical principles involved in this situation, we must make it as clear as possible that it is not our function to give gratuitous advice to a state registration board, or to pass judgment on this case as related to the question of whether Engineer B had engaged in activity which might or might not constitute a violation of the state registration law.

Restricting our analysis and conclusion to the sole question of whether Engineer B acted ethically, we affirm previous cases holding that it is not the intent or purpose of 12(a) to prevent one engineer from reviewing the work of another engineer. Nor does the code language so indicate. In this particular set of facts, it is apparent that Engineer A knew that Engineer B had been retained to make an engineer's inspection of the facility and that the resulting evaluation would necessarily entail a review of the original designs. Also, it is equally clear that the connection of Engineer A with the project had been terminated some years earlier. We do not need at this point, therefore, to consider whether the work of Engineer B was for the same client.

It may be helpful for future guidance to again point out that the purpose of 12(a) is to provide the engineer whose work is being reviewed by another engineer the opportunity to submit his comments or explanation for his technical decisions, thereby enabling the reviewing engineer to have the benefit of a fuller understanding of the technical considerations in the original design in framing his comments or suggestions for the ultimate benefit of the client. (See Cases Nos. 68-6 and 68-11.)

On the basis of the information submitted to us, there is no showing that Engineer B had undertaken his review and subsequent report with the intent to injure the professional reputation or practice of Engineer A. The fact that Engineer B concluded that some changes were needed in the equipment originally specified cannot alone constitute the kind of actions barred by 12. Otherwise, there would be no point in an owner's retaining another engineer to review the original design in an attempt to resolve current problems with the facility. Such a reading would, in fact, be contrary to the interests of the client and the public generally and would subject the engineering profession to justifiable criticism for placing the interests of its members above those of the public it serves.

Conclusion:*
Engineer B was not unethical in taking the assignment and in rendering the report to the owner.

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