Report on a Case by the Board of Ethical Review

Case No. 82-5

Whistleblowing

Facts:
Engineer A is employed by a large industrial company which engages in substantial work on defense projects. Engineer A's assigned duties relate to the work of subcontractors, including review of the adequacy and acceptability of the plans for material provided by subcontractors. In the course of this work Engineer A advised his superiors by memoranda of problems he found with certain submissions of one of the subcontractors, and urged management to reject such work and require the subcontractors to correct the deficiencies he outlined. Management rejected the comments of Engineer A, particularly his proposal that the work of a particular subcontractor be redesigned because of Engineer A's claim that the subcontractor's submission represented excessive cost and time delays.

After the exchange of further memoranda between Engineer A and his management superiors, and continued disagreement between Engineer A and management on the issues he raised, management placed a critical memorandum in his personnel file, and subsequently placed him on three months' probation, with the further notation that if his job performance did not improve, he would be terminated.

Engineer A has continued to insist that his employer had an obligation to insure that subcontractors deliver equipment according to the specifications, as he interprets same, and thereby save substantial defense expenditures. He has requested an ethical review and determination of the propriety of his course of action and the degree of ethical responsibility of engineers in such circumstances.

Question:
Does Engineer A have an ethical obligation, or an ethical right, to continue his efforts to secure change in the policy of his employer under these circumstances, or to report his concerns to proper authority?

References:
Code of Ethics - Section II.1.a. - "Engineers shall at all times recognize that their primary obligation is to protect the safety, health, property, and welfare of the public. If their professional judgment is overruled under circumstances where the safety, health, property, or welfare of the public are endangered, they shall notify their employer or client and such other authority as may be appropriate."

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Section III.2.b. - "Engineers shall not complete, sign, or seal plans and/or specifications that are not of a design safe to the public health and welfare and in conformity with accepted engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project."

Discussion:
In Case 65-12 we dealt with a situation in which a group of engineers believed that a product was unsafe, and we determined that so long as the engineers held to that view they were ethically justified in refusing to participate in the processing or production of the product in question. We recognized in that case that such action by the engineers would likely lead to loss of employment.

In Case 61-10 we distinguished a situation in which engineers had objected to the redesign of a commercial product, but which did not entail any question of public health or safety. On that basis we concluded that this was a business decision for management and did not entitle the engineers to question the decision on ethical grounds.

The Code section in point related to plans and specifications "that are not of a design safe to the public health and welfare," and ties that standard to the ethical duty of engineers to notify proper authority of the dangers and withdraw from further service on the project.

That is not quite the case before us; here the issue does not allege a danger to public health or safety, but is premised upon a claim of unsatisfactory plans and the unjustified expenditure of public funds. We could dismiss the case on the narrow ground that the Code does not apply to a claim not involving public health or safety, but we think that is too narrow a reading of the ethical duties of engineers engaged in activities having a substantial impact on defense expenditures or other substantial public expenditures that relate to "welfare" as set forth in Section III.2.b.

The situation presented here has become well known in recent years as "whistleblowing", and we note that there have been several cases evoking national interest in the defense field. As we recognized in earlier cases, if an engineer feels strongly that an employer's course of conduct is improper when related to public concerns, and if the engineer feels compelled to blow the whistle to expose the facts as he sees them, he may well have to pay the price of loss of employment. In some of the more notorious cases of recent years engineers have gone through such experiences and even if they have ultimately prevailed on legal or political grounds, the experience is not one to be undertaken lightly.

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In this type of situation, we feel that the ethical duty or right of the engineer becomes a matter of personal conscience, but we are not willing to make a blanket statement that there is an ethical duty in these kinds of situations for the engineer to continue his campaign within the company, and make the issue one for public discussion. The Code only requires that the engineer withdraw from a project and report to proper authorities when the circumstances involve endangerment of the public health, safety, and welfare.

***Conclusion:**
Engineer A does not have an ethical obligation to continue his effort to secure a change in the policy of his employer under these circumstances, or to report his concerns to proper authority, but has an ethical right to do so as a matter of personal conscience.

*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.

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