Report on a Case by the Board of Ethical Review

Case No. 84-5

Engineer's Recommendation For Full-Time, On-Site Project Representative

Facts:
The client plans a project and hires Engineer A to furnish complete engineering services for the project. Because of the potentially dangerous nature of implementing the design during the construction phase, Engineer A recommends to the client that a full-time, on-site project representative be hired for the project. After reviewing the completed project plans and costs, the client indicates to Engineer A that the project would be too costly if such a representative were hired. Engineer A proceeds with his work on the project.

Question:
Was it ethical for Engineer A to proceed with his work on the project knowing that the client would not agree to hire a full-time project representative?

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."

Section III.1.b. - "Engineers shall advise their clients or employers when they believe a project will not be successful."

Discussion:
The issue presented in this case goes to the heart of the Code of Ethics. A code of ethics is of course a statement of commitment from a particular profession to assist its members in the protection of the public health and safety. There is probably no better or more valuable purpose for a code of ethics. Engineers, like all other licensed professionals, recognize that the reason for regulation and licensure is the protection of the public health and safety. However, engineers have the desire and commitment to "go the extra mile," and voluntarily commit themselves to a higher standard of conduct. It is for that reason that the NSPE Code of Ethics was developed and continues to develop as a force in engineering ethics.

This point is quite relevant to the discussion of this case. Under the facts, Engineer A made a professional judgment based upon education, expertise, and experience that a full-time, on-site project representative would be necessary during the construction phase of the project because of the dangerous nature of the project. This was presumably a determination which was made after a careful and thorough weighing of the costs of the full-time, on-site project representative versus the benefits of having such a

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representative. It may very well be that the state engineering registration board's rules of professional conduct may not specifically require Engineer A to make the determination that was made; however, it appears that the NSPE Code of Ethics does contain provisions which address this point. Section III.1.b. clearly requires the engineer to inform a client when the engineer believes that a project will not be successful. The term "successful" includes not merely the structural and economic success of a project but also the success of the project from a safety standpoint. It is clear from the facts that Engineer A did notify the client of the need to hire a full-time, on-site project representative for the construction phase of the project. Therefore, Engineer A did act in accordance with Section III.1.b.

Section II.1.a. admonishes engineers to recognize that their primary obligation is to protect the public safety, health, property, and welfare. Under the facts of this case, it appears that Engineer A did not recognize this primary obligation. Engineer A, using best professional judgment, made a recommendation based upon what was believed to be consistent with that obligation. However, when cost concerns were raised by the client, Engineer A abandoned the ethical duty and proceeded with work on the project. It appears that Engineer A acted in a manner that suggests that the primary obligation was not the public but the client's economic concerns. For that reason, Engineer A was in violation of Section II.1.a.

When the client indicated that the project would be too costly if a full-time, on-site project representative were hired, Engineer A acceded to the client's wishes and proceeded with the work despite the fact that Engineer A believed that to proceed, without an on-site project representative, would be potentially dangerous. Engineer A did not force the issue or insist that a project representative be hired. Instead, Engineer A "went along" without dissent or comment. If Engineer A's ethical concerns were real, which we presume they were, Engineer A should have insisted that the client hire the on-site project representative or refuse to continue to work on the project. While this might appear to be a harsh result, we think that such an approach is the only one that would be consistent with the Code of Ethics.

Conclusion:
It was unethical for Engineer A to proceed with work on the project knowing that the client would not agree to hire a full-time, on-site project representative.

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