**Report on a Case by the Board of Ethical Review**

**Case No. 87-6**

**Solicitation of Recommendation—Use of Form Letter**

**Facts**:
Engineer A's firm is one of several being considered by a rural district government to design a sewerage system for it. As part of the selection process, the district has contacted former and current clients of the firms being considered and asked them to submit letters of reference to the selection board advising them of their experiences with the top three. Engineer A writes a letter to former and current clients to reinforce the district's request for references. Engineer A's cover letter is generally circumspect and dignified. He also encloses a form letter of reference that describes, in a general way, a client's experience with the engineer in flattering terms. He suggests this form letter be used as a guide.

**Questions:**
1. Was it ethical for Engineer A to contact former and current clients in the district requesting letters of reference be sent to the selection board?

2. Was it ethical for Engineer A to enclose the form letter of reference?

**References**:
Code of Ethics - Section III.1.f. - "Engineers shall avoid any act tending to promote their own interest at the expense of the dignity and integrity of the profession."

Section III.3.a. - "Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep statements from being misleading or intended or likely to create an unjustified expectation; statements containing prediction of future success; statements containing an opinion as to the quality of the Engineers' services; or statements intended or likely to attract clients by the use of showmanship, puffery, or self-laudation, including the use of slogans, jingles, or sensational language or format."

**Discussion**:
The issue under consideration at present has never been squarely addressed by this Board. Earlier Board cases relating to letters of solicitation have involved advertising letters rather than the propriety of letters of reference. However, this Board has dealt with the use of form letters by engineers in connection with the solicitation of professional employment. It would be valuable for us to revisit two of those cases in analyzing the facts before us.

In Case 65-17 an engineering firm mailed identical, personally typed letters to a number of deans of engineering schools, stating that the firm was currently engaged in designing

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new educational facilities for another university, and calling attention to an enclosed picture of a building that had been designed by the firm for a different college. In determining that it was ethical to promote engineering service agreements through direct mail, we noted that the letter was dignified and circumspect and was directed to interested and potential clients.

More recently, in Case 82-1, an engineering firm sent a form letter to local public officials calling attention to a new EPA program of performance audit inspections. The firm stated that it had knowledge of the pertinent regulations and the technical expertise to aid the local community in complying with the EPA requirements. The letter then described the range of the firm's services and proposed a meeting between them to discuss the matter. The form letter concluded with a notation that the firm was planning a seminar series on the regulations and enclosed a return postal card to indicate interest in attending the seminar or to suggest topics to be covered. In ruling that the solicitation letter was consistent with the Code of Ethics, we stated that it was not our function to suggest editorial revisions of solicitation letters, but we endorsed the concept that such letters be confined to factual statements of the background, experience, and qualifications of personnel.

Obviously the facts in this case are quite different. However, the two previous cases do suggest an approach that may be useful to this Board in its evaluation. Taken together, they suggest the philosophy that it is proper for engineers to initiate efforts to provide potential clients with accurate information on their firm, such as the nature of their previous work, current volume of work, areas of specialization, and client lists. Under a qualifications-based selection procedure, it is crucial for a selection committee to possess all relevant information on the firm, and all efforts directed at providing that information to a selection board are proper. We recognize that in today's busy world, there is often a need to reinforce requests for letters of reference and we do not want to characterize a dignified and circumspect request by an engineer to a former or current client as unethical or improper.

e now turn to the second issue in this case. We think Cases 65-17 and 82-1, as well as several others decided by this Board, would have viewed the use of a flattering form letter of reference as improper and a direct violation of the Code. By developing such a letter, Engineer A is substituting his own personal assessment of his professional qualifications in place of his clients'. We find that action improper for at least three reasons.

First, the selection board specifically requested that the information be provided by clients. Second, Engineer A's form letter could be misleading because the services Engineer A provided to the various clients are unique, and each client's experiences with Engineer A are unique. A form letter can seldom be structured to account for the differences in services or experiences of each client. Third, the use of this form letter seriously undermines the whole qualifications-based selection process, which is intended to select an engineer on the basis of merit. By suggesting that clients use this form letter as a guide for the letter of reference, Engineer A defeats the process of having a

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selection board choose the engineer who has substantially demonstrated experience and qualifications. The selection board is not seeking "canned letters"; they want meaningful and material information.

We view Engineer A's action as presumptuous and unprofessional. Whatever purpose Engineer A intended by sending this form letter to his clients would probably be defeated.

**Conclusions**:*

Q1. It was ethical for Engineer A to contact former and current clients in the district requesting letters of reference be sent to the selection board.

Q2. It was not ethical for Engineer A to enclose the form letter of reference.

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