BER Case 91-9

APPROVED BY BER
November 1, 1991

Preamble	-	Code of Ethics
Section II.1.e.	-	Code of Ethics
Section II.5.a.	-	Code of Ethics
Section III.8.	-	Code of Ethics

MISREPRESENTATION OF EDUCATION

FACTS:

Engineer A is a professional engineer who occasionally provides forensic engineering services as part of the litigation process. As part of a written submission during a legal proceeding, Engineer A indicates that he possesses a degree in electrical engineering and a doctoral degree in electrical engineering. In fact, Engineer A's baccalaureate degree was in engineering technology and his doctoral degree was an honorary degree bestowed upon him by an engineering school. Engineer B who knows Engineer A learns of these misrepresentations in discussions with his colleague, Engineer C, who is serving as an expert witness for the side opposing Engineer A's client. Engineer C is unaware of the misrepresentation.

QUESTION:

What is Engineer B's ethical obligation under the facts and circumstances of this case?

REFERENCES:

Preamble -Engineering is an important and learned profession. The members of the profession recognize that their work has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness and equity, and must be dedicated to the protection of the public health, safety and welfare. In the practice of their profession, engineers must perform under a standard of professional behavior which requires adherence to the highest principles of ethical conduct on behalf of the public, clients, employers and the profession.

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Section II.1.e. -Engineers having knowledge of any alleged violation of this Code shall cooperate with the proper authorities in furnishing such information or assistance as may be required.

Section II.5.a. -Engineers shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers or past accomplishments with the intent and purpose of enhancing their qualifications and their work.

Section III.8. -Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other engineers, nor untruthfully criticize other engineers' work. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

DISCUSSION:

The Board has had occasion to consider the issue of falsification or misrepresentation of academic or professional qualifications on a number of occasions. The issue of falsification or misrepresentation of academic or professional qualifications is a core ethical issue because it goes to the heart of engineering ethics -- the protection of the public health and safety through the establishment of rules of conduct which help to assure that the public receives the highest quality engineering services possible. As a preliminary observation, we would first note that the conduct of Engineer A was clearly improper under the Code of Ethics.

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BER Case 79-5 is instructive on this important issue. There an engineer received a Bachelor of Science degree in 1940 from a recognized engineering curriculum, and subsequently was registered as a professional engineer in two states. Later, he was awarded an earned "Professional Degree" from the same institution. In 1960 he received a Ph.D degree from an organization which awards degrees on the basis of correspondence without requiring any form of personal attendance or study at the institution, and is regarded by state authorities as a "diploma mill". The engineer listed his Ph.D degree among his academic qualifications in brochures, correspondence, and otherwise without indicating its nature. In finding that it was unethical for the engineer to cite his Ph.D as an academic qualification under these circumstances, the Board noted that the engineer was charged with knowledge of the accepted standards of the profession. By stating that he had a Ph.D degree he should have been aware that those who receive his communications would be deceived. While the Board noted that there may be some flexibility allowed for state registration boards to decide which educational attainments meet the standards for registration purposes, and there is some flexibility allowed to members of the profession in listing academic degrees from institutions or curricula not recognized by the state boards, the bounds of such flexibility are exceeded when the basis for the claimed educational achievement is a mail order procedure.

More recently, in BER Case 86-6 an engineer seeking employment with Y, had been employed earlier by X as a staff engineer along with five other staff engineers of equal rank. The team of six was responsible for the design of certain products. While working for X, the engineer along with the five other engineers in his team participated in and was credited with the design of a series of products. The engineer's resume implied that he personally was responsible for the design of products which were actually designed through the joint effort of the members of the team. In ruling it was unethical for the engineer to imply responsibility in the manner indicated, the Board noted that while the engineer did not state the he was personally responsible for the work in question, the Board interpreted the word "misrepresentation" in Section II.5.a. to include implications which are intended to obscure truth to a client, members of the public, or prospective employers for that matter.

These two cases, as well as other cases considered by previous Boards, clearly illustrate their strong disfavor toward circumstances where an individual expressly or impliedly falsifies or misrepresents academic or professional qualifications to employers, clients or to members of the public. There can be no doubt concerning their view on this important issue. However, the question faced by us relates to the ethical obligation of an engineer who learns of another engineer's improper conduct. Does that engineer have an obligation to confront the misrepresenting engineer? Does the Code of Ethics require the engineer to take further action by reporting the misrepresentation to the appropriate authorities? Are both actions required?

Code Sections II.1.e. and III.8. makes it clear that an engineer who learns of a misrepresentation of this nature committed by another engineer can not stand silent and do nothing. We are persuaded that an engineer who learns of such a misrepresentation has an obligation to notify and cooperate with proper authorities concerning the misrepresentation.

We also note that some state engineering registration laws may impose an affirmative obligation on registrants to immediately report instances such as those described under the facts as a matter of law.

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CONCLUSION:

Engineer B has an ethical obligation to report the misrepresentation to the appropriate authorities. In some circumstances, as a matter of courtesy, it may be appropriate for Engineer B to advise Engineer A that his misrepresentation is unethical, but such actions are not required by the Code of Ethics.

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