
ENGINEERING ETHICS

Presented By: Justin P. Weinberg
jweinberg@taftlaw.com

January 18, 2023

-
- There are several ethical rules that must be followed.
 - Rules can be found in Minnesota's Administrative Rules, Chapter 1805. Every licensed engineer is imputed with knowledge of these rules.

-
- In addition to these rules, every professional engineer is statutorily charged with the safeguarding of life, health, public welfare and property.

Conflict of Interest

Engineer A, a forensic engineer, accepts a plaintiff's attorney's retainer and receives selected file documentation from the attorney and subsequently bill the attorney for the work, which includes a review of the case documentation.

Because of an undisclosed disagreement between Engineer A and the attorney, Engineer A ceases performing work without delivering a report to the attorney or receiving additional payment for services.

Conflict of Interest

Engineer A returns the retainer to attorney and all of the file documentation that the attorney has earlier provided to Engineer A.

Several months later, Engineer A is approached by the defense attorneys in the same case, and Engineer A accepts the assignment to function as one of the experts for the defense.

Conflict of Interest

1805.0300 provides in relevant part:

- A licensee shall not accept a project where a duty to the client would conflict with the interest of another client.
- Prior to accepting a project, the licensee shall disclose to a prospective client such facts as may give rise to a conflict.

Conflict of Interest

1805.0300 further provides:

A licensee shall not accept compensation for services relating or pertaining to the same project from more than one party, unless 3 conditions exist.

Conflict of Interest

- There is a unity of interest between or among the parties to the project;
- The licensee makes full disclosure; and
- The licensee obtains the express consent of all the parties from whom compensation will be received.

Conflict of Interest

Was it ethical for Engineer A to accept the assignment to function as one of the experts for the defense?

Misrepresentation

Engineer A is starting out as a consulting engineer. Engineer A is the first to respond to a notice in the newsletter of a local chapter of an engineering society asking for volunteers to help organize a consultant's referral network.

Engineer B, a society officer, asks Engineer A to help organize the network as well as others who express interest.

Misrepresentation

Later, Engineer B calls to ask Engineer A if Engineer A would look at an engineering problem. Engineer A goes to Engineer B's office expecting to get the particulars of a referral, since some members of the network are in the habit of giving each other referrals.

Engineer B then accompanies Engineer A to the potential client's office, but because the referral process is new, Engineer A does not discuss arrangements with Engineer B.

Misrepresentation

- In the middle of the client's description of the engineering problem, the client asks about the contractual relationship.
- Engineer B replies that Engineer A will subcontract with Engineer B.
- Engineer A advises the client that final arrangements have not been completed.

Misrepresentation

Was it ethical for Engineer B to indicate that Engineer A will subcontract to Engineer B on the project?

Was it ethical for Engineer A to advise the client that final arrangements have not been completed?

Misrepresentation

Rule 1805.0400 provides in relevant part:

- A license shall not make false or malicious statements that may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

Misrepresentation

Rule 1805.0200 (and 1805.0900) provides in relevant part:

- A licensee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Misrepresentation

Who is getting tagged?

Competence

Engineer A, a chemical engineer with no construction experience, receives a solicitation in the mail stating:

“Engineers today cannot afford to pass up a single job that comes by – including construction project that may be new or unfamiliar”

Competence

Now – thanks to a revolutionary new software program – specifying, designing and costing out any construction project is as easy as pointing and clicking – no matter your design experience. Never designed a highway before? No problem. Just click “Highways”

Competence

Simply sign and return this letter today and you will be among the first engineers to see how this full-featured interactive library of standard design can help you work faster than ever and increase your firm's profits.

Engineer A orders the software and begins to offer construction services.

Competence

1805.0400 (and 1805.0650) provides in relevant part:

- A licensee shall seek and engage in only the professional work or employment the professional is competent and qualified to perform by reason of education, training and experience.

Competence

- Was it ethical for Engineer A to offer construction services?

Public Safety and Welfare

Tenants of an apartment building sue the owner to force him to repair many defects in the building which affect the quality of use.

Owner's attorney hires Engineer A to inspect the building and give expert testimony in support of the owner.

Engineer A discovers serious structural defects in the building that constitute an immediate threat to the safety of the tenants.

Public Safety and Welfare

The tenants' suit has not mentioned these safety related defects.

Upon reporting the findings to the attorney, Engineer A is told to maintain the information as confidential as it is part of a lawsuit.

Public Safety and Welfare

Was it ethical for Engineer A to conceal the knowledge of the safety-related defects in view of the fact that it was an attorney who stated the Engineer was legally bound to maintain confidentiality?

Comments by One Engineer Concerning Another

Engineer A practicing in State X requires the services of an engineer in State Y.

Engineer A contacts Engineer B, who is an officer of the State Y Society of Professional Engineers, to request the name of an appropriate engineer in State Y to perform the required engineering work.

Engineer B suggests Engineer C.

Comments by One Engineer Concerning Another

Not satisfied with the services provided by Engineer C, including Engineer C's lack of regular communication with Engineer A, Engineer A later contacts Engineer B and tells Engineer B of the dissatisfaction with Engineer C.

Engineer A does not first communicate the displeasure to Engineer C.

Comments by One Engineer Concerning Another

Engineer A also remarks to Engineer B that there is interest in retaining the services of another engineer for the project.

Engineer B told Engineer C of Engineer A's comments.

Soon after, Engineer C contacts Engineer A and expresses strong displeasure toward Engineer A for the comments made to Engineer B.

Comments by One Engineer Concerning Another

1805.0500 provides in relevant part:

A licensee shall not make false or malicious statements that may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

Comments by One Engineer Concerning Another

Did Engineer A act ethically in telling Engineer B that Engineer C's work was unsatisfactory?

Did Engineer A act ethically in not telling Engineer C about the dissatisfaction with the work?

Did Engineer B act ethically in telling Engineer C that Engineer A was dissatisfied?

Did Engineer C act ethically by not communicating more regularly with Engineer A?