

Conflict of Interest—Engineer Spouse as Sales Representative

Case No. 18-1

Facts:

Engineer A is an employee for Firm X. Engineer A purchases office computer software from Company Y, which employs Engineer A's spouse as its sales representative, and Engineer A's spouse handles the transaction. After an internal complaint is filed within Firm X regarding nepotism/favoritism, Firm X determines that the prices from Company Y are within market pricing range and that the office computer software products meet Firm X's needs.

Questions:

1. Was it ethical for Engineer A to fail to disclose that Engineer A's spouse was a sales representative with Company Y?
2. Was it unethical for Engineer A to have entered into a contract with Company Y?

NSPE Code of Ethics References:

- Section I.5. - *Engineers, in the fulfillment of their professional duties, shall avoid deceptive acts.*
- Section II.4.a. - *Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.*
- Section II.4.c. - *Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.*
- Section III.1.e. - *Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.*

NSPE BER Case Reference: 06-10

Discussion:

Conflicts of interest raise important ethical issues for engineers. An engineer's professional judgment and expertise speak to the engineer's competence and integrity. It is vitally important for professional engineers to exercise their judgment and discretion in a manner that reflects objectivity and truthfulness and does not compromise the engineer's professional reliability. Conflicts of interest call into question the ability of the engineer to use his or her judgment without compromise.

The BER has examined at least one conflict of interest case involving a spouse in the past. In BER Case 06-10, Engineer A, a quality assurance manager at Company C, learned that the purchasing manager for Company C had contracted with a new supplier of precision plastic components. It turned out that the production manager at the new supplier was the quality assurance manager's spouse—a fact unknown to everyone at Company C. The quality assurance manager did not create the situation, and there was no effort to put pressure on any

party in connection with the dealings between the parties. In deciding that Engineer A should provide full disclosure to appropriate managers within his company that he was the spouse of a key employee of a vendor and that he would be required to recuse himself from specific dealings with the vendor, the BER noted that the best approach continues to be full, candid, and clear disclosure of all facts and circumstances that could influence or appear to influence the engineer's judgment or the quality of the engineer's services. The BER emphasized that this method of disclosure will encourage a process whereby all parties involved in the relationship or transaction will follow appropriate procedures and protocols that will lessen the likelihood of improper conduct. While there are never any guarantees, the BER noted that adherence to the highest principles of conduct can have a ripple effect in the relationship and set an example to be followed.

The BER went on to state that Engineer A's recognition of at least the potential of a conflict of interest would require him to provide full disclosure to appropriate managers within his company that he is the spouse of a key employee of a vendor and that, in certain circumstances, he may be required to recuse himself from specific dealings with the vendor. The BER foresaw circumstances in which, as quality assurance manager, Engineer A would be in a position to evaluate the quality of the vendor's product, and that, should any questions arise concerning the vendor's product, Engineer A might find himself in a personally conflicted situation—between the interests of his employer and the interests of his spouse and her employer.

In the present case, the BER believes that the facts and circumstances make an even stronger argument than in BER Case 06-10 that a conflict of interest exists. In the previous case, the engineer's spouse was a production manager at the vendor's company—not the sales representative handling the transaction—and the engineer in BER Case 06-10 did not create the situation that could potentially cause a conflict of interest. In the present case, Engineer A made a decision to purchase the software product from Company Y with Engineer A's spouse handling the transaction.

In view of these unambiguous facts, it is the BER's opinion that Engineer A violated the NSPE Code of Ethics both for failing to first disclose the conflict to Firm X officials and for entering into the software contract with Company Y. The fact that the prices from Company Y were within market pricing and that the office computer software products met Firm X's company needs are not relevant to the overarching ethical issues and the fact that Engineer A could personally benefit from the transaction because, as Company Y's sales representative, Engineer A's spouse handled the transaction.

Conclusions:

1. It was unethical for Engineer A to fail to disclose that Engineer A's spouse was a sales representative with Company Y.
2. It was unethical for Engineer A to have entered into a contract with Company Y. Instead, Engineer A should have first disclosed the contract and his spousal relationship with an appropriate Firm X supervisor who could consider and approve the agreement, if appropriate.

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