

**Engineering Ethics: You Be The Judge
Real Life Fact Base Case Studies
Case #1**

The Situation

The attorney for a plaintiff involved in a legal action orally retains N.D. Middle, P.E., a principal in a private practice firm, to provide accident reconstruction consultation. The plaintiff is suing a defendant allegedly responsible for a traffic accident. Middle sends a letter of agreement to the plaintiff's attorney, but it is never returned. No additional information is exchanged between Middle and the plaintiff's attorney. About two years later, the law firm representing the defendant contacts Middle and seeks to retain his services in connection with the same legal action. Middle, assuming that the plaintiff and his attorney have decided to retain the services of another expert, agrees to provide his services to the law firm representing the defendant. Later, the plaintiff's attorney contacts Middle with the expectation that Middle will provide accident reconstruction consultation per their earlier oral agreement.

What Do You Think?

Was it ethical for Middle to agree to provide his services to the law firm representing the defendant?

What the Board Said

Middle acted ethically in agreeing to provide those services. He was never involved substantively in the accident analysis and was apparently provided with only a general and perfunctory description of the nature of the accident and the issues involved in the case. From the facts, it appears that the only exchange that took place between Middle and the plaintiff's attorney was an oral agreement by Middle to provide the requested services. The written letter of agreement prepared by Middle was never signed by the plaintiff or his attorney. Because no one discussed "particular, specialized knowledge" with Middle and no actual, substantive facts and circumstances of the case were revealed to him, it is plausible to conclude that Middle never became privy to any information that could cause a conflict of interest.

While he did not have a conflict of interest per se, Middle, as a courtesy, should have asked whether his professional services would be required by the plaintiff's attorney as part of the litigation, before agreeing to be retained by the defendant's attorney. Moreover, although the plaintiff and his attorney acted improperly in their failure to respond to Middle's letter of agreement, Middle should not have assumed that the plaintiff and his attorney had sought consulting services elsewhere. Because of the delicate nature of the matter at hand and the danger of misperception of Middle's actions, he should have made inquiries before agreeing to provide services to the defendant.

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Case #2

The Situation

Will K. Neckted, P.E., is a principal in a consulting engineering firm. He is appointed by the governor of a state to serve as secretary of commerce and subsequently resigns from the engineering firm. While Neckted was a principal in the engineering firm, the firm had performed work for a major developer that is planning to build a major project in the state. As secretary of commerce, Neckted has been asked by the governor to spearhead the state's campaign to bring the major development project to the state. The project has been the subject of controversy on account of its potential environmental impact and the effect it could have on historic areas of the state.

Although Neckted resigned from the engineering firm, he maintained a \$250,000 retirement fund, which is administered by, and includes a very small amount of stock in, the firm. The firm has recently indicated that it might be interested in pursuing additional engineering work for the developer as part of the major development project. Neckted has also indicated to members of the media that upon the conclusion of his services as secretary of commerce, he could very well return to his consulting engineering firm. Neckted has fully disclosed all pertinent information to the state.

What Do You Think?

Was it ethical for Neckted to maintain a retirement fund administered by his former engineering firm while serving as secretary of commerce? Was it ethical for Neckted, as secretary of commerce, to participate in the discussions surrounding the development project?

What the Board Said

It was unethical for Neckted to maintain the retirement fund while serving as secretary of commerce, but he acted ethically-with on proviso-in considering issues relating to the major development project. When such consideration specifically and directly related to the professional services provided by his former engineering firm, the NSPE Code of Ethics does not allow his participation.

Neckted's disclosure of the facts and circumstance surrounding his retirement fund and his relationship with his engineering firm constituted a disclosure of the possible conflict of interest. But that did not come within the ethical guidelines of the Code and was not a proper course in dealing with the appearance of conflict. An engineer can only avoid such a conflict either by disposing of his land and holdings prior to undertaking the commission or by declining to perform the services if it is not feasible or desirable for him to dispose of his land at the particular time; in this case, a minimum amount of stock in his former firm. Such an approach would not constitute an unfair and unreasonable financial hardship for Neckted and would not go beyond the requirements of the Code.

Neckted's role as secretary of commerce presumably involves a broad range of commercial, business, and related issues involving the financial well-being of the state, so the development project would be an appropriate topic for his involvement. However, when it comes to issues involving his engineering firm, one may assume that Neckted's judgment and knowledge would be influenced by his ongoing relationship with the firm. As a principal in the consulting firm, Neckted's relationship with the developer should require that, as secretary of commerce, he remove himself from consideration of these development project issues.

Mere disclosure of a potential conflict of interest to a client or employer does not, in and of itself, eliminate the conflict of interest issue (contrast Code of

Ethics Section II.4.a. with Section III.5). A greater level of ethical commitment is required of professional engineers.

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Case #3

The Situation

E.E. Most, a PE in the electrical engineering field, is employed by a state agency as a computer systems engineer with some management responsibilities. Educated and trained to perform customary engineering services, Most's work experiences have never involved technical and design issues concerning environmental services.

As part of a restructuring of the agency, his direct supervisor, Felix A. Ball, recommends that Most accept a position the Department of Environmental Services has offered him. The position requires a PE and involves engineering analysis and design responsibilities, and Most would be working as part of a team of engineers.

Most refuses to accept the position, citing state board regulations requiring him to perform work only in his area of competence and his lack of expertise to perform the work. Thereafter, Most is terminated.

During an administrative hearing involving Most's reinstatement to his former position and back pay, Ball testifies that Most was qualified to accept the position offered in the Department of Environmental Services.

What Do You Think?

Was it ethical for Most to decline the position? And did Ball act ethically in testifying that Most was qualified to accept the position?

What the Board Said

The NSPE Board of Ethical Review interpreted the Code of Ethics as prohibiting Most from accepting the new assignment if he truly believed that

he lacked the competence to perform the work. The Board believes that the Code does not aim to prohibit engineers from accepting new and different tasks and duties and thereby grow professionally. Nevertheless, the Board could not ignore the practical realities of engineering and infringe upon the autonomy, judgment, and professional discretion of an individual practicing engineer.

The Board, therefore, must take Most at his word that the reason for declining the position offered was because he believed that he lacked the competence to perform the work—even though he would be performing the services as part of a team. As a professional engineer in an environmental agency, Most at some point would probably be put in responsible charge of activities for which he lacked the necessary education, training, and experience.

Having concluded that Most could ethically decline the position, the Board also decided that it was ethical for Ball to testify as to Most's qualifications to accept the position. The Board based its decision on the assumption that Ball had a reasonable and good-faith belief that Most could perform the services in question.

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Case #5

The Situation

Hardy N. Strong, P.E., serves as a member of the board of trustees of a college in a medium-sized city. The U.S. Department of Housing and Urban Development (HUD) has awarded money to the city, and the city has agreed to use the money to construct a new library at the college. Strong would like to be considered for providing engineering services on the project.

What Do You Think?

Would it be ethical for Strong to offer his engineering services on the project?

What the Board Said

The NSPE Board of Ethical Review (BER) has considered similar issues in previous cases, and provided a context for understanding this situation.

In one case, an engineer serving on a community-service corporation was responsible for obtaining money to construct a courthouse and office. The engineer was instrumental in getting the federal government to spend the money on the project, but his service corporation had no influence in determining who would design or build the project. The engineer wanted to be a subconsultant to a larger design firm, and submitted proposals to the responsible federal government agency. The BER found no violation of the ethical code.

In another case, an engineer served on the board of directors of a private health care provider that had contracted with the county hospital board to operate a health care facility where some engineering work was needed. The engineer received a contract from the private provider to perform the work. The decision was made by the private board, of which the engineer was a member, and the engineer participated in the decision. The BER concluded that the engineer could not ethically seek the work or participate in the decision of selecting himself.

In the present case, the city will award the library contract using HUD funds. The college trustees and city fathers must have a very close relationship. Although Strong will not be involved in the decision, he is too close to the city and could influence its decision. According to the BER, it would be unethical for Strong to be considered for providing engineering services on this project.

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Case #10

The Situation

Hy Caliber, P.E., serves as a peer reviewer for an organized peer review program developed to help engineers improve their professional practice. When originally selected as a peer reviewer, Caliber is asked to sign a "confidentiality agreement" whereby Caliber agrees not to disclose confidential information involving peer-reviewed firms.

As part of a peer review visit, Caliber visits the firm of Ondi Edge, P.E. Following a review of technical documentation connected to a series of recent design projects involving Edge's firm, Caliber discovers that Edge's work may be in violation of state and local safety code requirements and could endanger public health, safety, and welfare.

What Do You Think?

What are Caliber's ethical responsibilities under the circumstances?

What the Board Said

If Caliber determines that Edge's work is or *may* be in violation of state and local safety requirements and endangers public health, safety, and welfare, Caliber should immediately discuss these issues with Edge in an effort to clarify and resolve this issue quickly. If Caliber and Edge are unable to resolve the issue, Caliber must inform Edge that as a professional engineer, his only alternative is to notify the proper authorities.

In recent years, various professions, including engineering groups, have successfully developed peer review programs. These voluntary programs have been immensely successful in creating a mechanism for professionals to work together in a collegial atmosphere to understand and improve professional practice. This can be accomplished by analyzing and evaluating the actions, decisions, and techniques of the professional and offering constructive and, at times, critical feedback. Peer review enhances professional practice.

However, such programs are built on a foundation of confidentiality—an individual agreeing to serve as a peer reviewer must sign a confidentiality agreement—and for good reason. Firms under peer review should be encouraged to provide as much pertinent, detailed information to the peer reviewer as possible to allow a thorough evaluation of the firm. Confidentiality ensures a maximum amount of disclosure. In addition, confidentiality helps build trust between the parties involved in the peer review process and promotes an atmosphere that will improve production and guarantee success.

While the merits of confidentiality are clear, in Caliber's case, the NSPE Board of Ethical Review was faced with the discovery that the Edge may be in violation of state and local safety code requirements and could endanger public health and welfare. This ethical dilemma appears to involve two separate provisions of the NSPE Code of Ethics—Section III.4. and Section II.1.e. The BER has considered at least one case involving an engineer gaining knowledge of information damaging to a client's interest and affecting the public health and safety (see BER Case 76-4). On one hand, the engineer has an obligation not to disclose confidential information concerning the business affairs or technical processes of any present or former client without the client's consent. On the other hand,

Caliber, having knowledge of any alleged violation of the Code of Ethics, has an obligation to cooperate with the proper authorities in furnishing such information or assistance as may be required.

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Case #13**

The Situation

Industraco is involved in the manufacturing of consumer products, including certain industrial tools. Cy Lanced, P.E., who has performed research and is experienced in the design and manufacture of these specialized industrial tools, is now an engineering faculty member at a private university. Lanced also owns an independent consulting engineering practice. Industraco contacts Lanced and requests that he agree to a consulting contract designed to prevent him from speaking out in public or testifying in any future litigation involving industrial tools manufactured by Industraco.

What Do You Think?

Would it be ethical for Lanced to agree to a consulting contract (with Industraco) with the sole purpose of preventing Lanced from speaking out in public or testifying in any future litigation involving industrial tools manufactured by Industraco?

What the Board Said

Various provisions in the NSPE Code of Ethics result, at times, in competing ethical values. One of the more prominent competing values relates to the ethical obligation of the engineer to maintain the confidentiality of information provided to Lanced, the engineer's client, or derived as a result of the professional services rendered by the engineer. There are occasions in which this basic and straightforward ethical responsibility conflicts with the duty of the engineer to hold paramount the public health and safety.

However, in this case there do not appear to be any overriding or legitimate ethical reasons for Lanced to agree to a consulting contract with the sole purpose of preventing him from speaking out in public or testifying in any future litigation involving industrial tools manufactured by Industraco. By signing the contract, Lanced would compromise his professional judgment

and play the role of a "hired gun" bound by "golden handcuffs" without regard to the individual facts and circumstances involved in a particular case. In potential future situations, it would be in the public's interest for Lanced to speak out publicly concerning information that could have an important bearing on the public health, safety, and welfare. As a professional engineer with an affirmative obligation to hold paramount the public health and safety, the Board cannot see how Lanced is serving this ethical value by executing an agreement that prevents Lanced from prospectively performing this basic ethical obligation.

It would not be ethical for Lanced to knowingly agree to a consulting contract (with Industraco) with the sole purpose of preventing Lanced from speaking out in public or testifying in any future litigation involving industrial tools manufactured by Industraco.

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Case #14

The Situation

Engineer A is a graduating senior with excellent credentials from X University. Engineer A has had a series of job interviews with engineering companies from around the U.S. Following interviews with several industrial companies, Engineer A decides to accept an offer with ABC Incorporated located in his hometown of Townville and plans to notify ABC the following week. In the interim period, Engineer A receives a call from Engineer B, an executive with XYZ Incorporated, a potential employer with whom Engineer A interviewed. On behalf of XYZ, Engineer B offers Engineer A, a position with XYZ and invites Engineer A, at XYZ's expense, to visit XYZ's headquarters in Mountainville, a city located near a resort area following Engineer A's graduation. Engineer A had earlier decided he would not accept a position with XYZ if offered a position by ABC because Engineer A wanted to live near Townville to be close to family and friends, and also because ABC provided better long-term professional opportunities. However, after receiving the call from XYZ, Engineer A decides to accept the invitation to visit XYZ's headquarters and combine the trip with a post-graduation vacation, believing that the visit to XYZ will broaden his knowledge of the employment market, as well as future professional

opportunities with XYZ. A week after the trip, Engineer A calls ABC and informs the company that he will accept the position with ABC.

What Do You Think?

Was it ethical for Engineer A to accept the invitation to visit XYZ headquarters?

What Iowa Engineering Society's Northwest Chapter Said

A majority of the difficulty that we had with Engineer A is that he was not up front with XYZ Incorporated in that he had decided to accept an offer with ABC Incorporated.

Engineer A's acceptance of the interview trip to XYZ's mountain headquarters was deceptive in that he had already decided to commit to ABC, and did not offer that information to XYZ. He tries to justify the trip to himself reasoning that it will "broaden his knowledge of the employment market, as well as future professional opportunities." This is in direct conflict with the reasoning for his decision to go with ABC because "ABC offered better long-term professional opportunities." He had decided to go with ABC because of the long-term opportunities, so future opportunities with XYZ should not have been a factor. We felt that Engineer A was not being true to himself by trying to justify the trip this way.

Though Engineer A was opportunistic in combining the ski trip with the interview with XYZ Incorporated, XYZ may have not had a problem with his interest in skiing. Given that the trip was scheduled after graduation, XYZ may have even expected and encouraged a ski trip depending on how interested in they were in Engineer A. Being near a resort is an amenity for XYZ Incorporated and a positive factor in the decision making process to work for their company.

A company recruiting engineers has some degree of risk and sunk cost in bringing them to the headquarters without a commitment from the recruit. They do have an expectation though, that they have a reasonable (or better if this is a second interview) chance that the recruit will commit to their company. XYZ incorporated was not afforded this chance because Engineer A had made his decision to go with ABC Inc. If Engineer A would had communicated his decision to go with ABC Inc. to the XYZ executive after the offer of the trip, XYZ Inc. could have determined if it was worth it to still fly him out and try to sway his decision. Seeing that he had "excellent credentials," it may have been worth the risk to XYZ Inc. to bring him to their headquarters. Though he had decided on ABC Inc. he had not officially accepted the position with them and was "still on the table."

The Fact situation does not discuss the size of XYZ Inc. If it is a small company, flying one recruit that has no interest in the company may use up the recruiting budget for the year, making the deception egregious. Where if it is a large company recruiting numerous individuals and flying them out to the headquarters, they know they are taking the chance and will not get all the recruits they go after. This is a point that Engineer A should have considered prior to accepting the offer of the trip.

Ultimately, we felt that because Engineer A was not honest and up front with the XYZ executive, he was deceptive and took advantage of XYZ Incorporated. It was unethical for Engineer A to accept the invitation to visit XYZ headquarters.

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Case #20

The Situation

Acton Haste, P.E., is employed by SPQ Engineering, an engineering firm in private practice involved in the design of bridges and other structures. As part of its services, SPQ Engineering uses a CAD software design product under a licensing agreement with a vendor. Under the terms of the licensing agreement, SPQ Engineering is not permitted to use the software at more than one workstation without paying a higher licensing fee. SPQ Engineering ignores this restriction and uses the software at a number of employee workstations. Haste becomes aware of this practice and calls a hotline publicized in a technical publication and reports his employer's activities.

What Do You Think?

Was it ethical for Haste to report his employer's apparent violation of the licensing agreement on the hotline without first discussing his concerns with his employer?

What the Board Said

Haste has an obligation to pursue this matter with SPQ Engineering. If a satisfactory ethical resolution cannot be reached, he is obligated to report the violation to the vendor. In addition, Haste should reconsider his further association with a firm that has shown itself engaged in fraudulent and dishonest enterprise. The Board recognizes the right and the obligation of the engineer to report such violations as appropriate. At the same time, the Board believes that as a professional, an engineer should always exercise judgment and discretion when confronting a situation such as the one presented under the facts. Depending on all of the facts and circumstances, an engineer should take reasonable steps to exhaust all appropriate alternatives before taking an extreme action, such as reporting an employer or a client for their actions, particularly where such actions do not appear to result in physical harm or danger to the public health or safety. At the same time, engineering managers acting for an employer who knowingly act in an unlawful manner or who take retaliatory actions against another engineer



who brings such matters to their attention are ignoring the basic principles contained in the NSPE Code of Ethics and are acting unethically.

It was not ethical for Haste to report his employer's apparent violation of the licensing agreement on the hotline without first discussing his concerns with his employer. Engineering firms acting through engineering managers who willfully ignore licensing agreement restrictions are in violation of the NSPE Code of Ethics.

NSPE Code of Ethics for Engineers

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering 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. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.
 - a. If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
 - b. Engineers shall approve only those engineering documents that are in conformity with applicable standards.
 - c. Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
 - d. Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
 - e. Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
 - f. Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.
2. Engineers shall perform services only in the areas of their competence.
 - a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
 - b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - c. Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.
3. Engineers shall issue public statements only in an objective and truthful manner.
 - a. Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.

- b. Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
 - c. Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.
 4. Engineers shall act for each employer or client as faithful agents or trustees.
 - 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.
 - b. Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
 - 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.
 - d. Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
 - e. Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.
 5. Engineers shall avoid deceptive acts.
 - a. Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their 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.
 - b. Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.
 - a. Engineers shall acknowledge their errors and shall not distort or alter the facts.
 - b. Engineers shall advise their clients or employers when they believe a project will not be successful.
 - c. Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
 - d. Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
 - e. Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.
2. Engineers shall at all times strive to serve the public interest.
 - a. Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
 - b. Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
 - c. Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.



- d. Engineers are encouraged to adhere to the principles of sustainable development¹ in order to protect the environment for future generations.
3. Engineers shall avoid all conduct or practice that deceives the public.
 - a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
 - b. Consistent with the foregoing, engineers may advertise for recruitment of personnel.
 - c. Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.
4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.
 - a. Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
 - b. Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.
5. Engineers shall not be influenced in their professional duties by conflicting interests.
 - a. Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
 - b. Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.
6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.
 - a. Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
 - b. Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
 - c. Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.
7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.
 - a. Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
 - b. Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
 - c. Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.
8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.
 - a. Engineers shall conform with state registration laws in the practice of engineering.
 - b. Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.
 - a. Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
 - b. Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
 - c. Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
 - d. Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.
 - e. Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

Footnote 1 "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

—As Revised July 2007—

"By order of the United States District Court for the District of Columbia, former Section 11(c) of the NSPE Code of Ethics prohibiting competitive bidding, and all policy statements, opinions, rulings or other guidelines interpreting its scope, have been rescinded as unlawfully interfering with the legal right of engineers, protected under the antitrust laws, to provide price information to prospective clients; accordingly, nothing contained in the NSPE Code of Ethics, policy statements, opinions, rulings or other guidelines prohibits the submission of price quotations or competitive bids for engineering services at any time or in any amount."

Statement by NSPE Executive Committee

In order to correct misunderstandings which have been indicated in some instances since the issuance of the Supreme Court decision and the entry of the Final Judgment, it is noted that in its decision of April 25, 1978, the Supreme Court of the United States declared: "The Sherman Act does not require competitive bidding."

It is further noted that as made clear in the Supreme Court decision:

1. Engineers and firms may individually refuse to bid for engineering services.
2. Clients are not required to seek bids for engineering services.
3. Federal, state, and local laws governing procedures to procure engineering services are not affected, and remain in full force and effect.
4. State societies and local chapters are free to actively and aggressively seek legislation for professional selection and negotiation procedures by public agencies.
5. State registration board rules of professional conduct, including rules prohibiting competitive bidding for engineering services, are not affected and remain in full force and effect. State registration boards with authority to adopt rules of professional conduct may adopt rules governing procedures to obtain engineering services.
6. As noted by the Supreme Court, "nothing in the judgment prevents NSPE and its members from attempting to influence governmental action . . ."

NOTE: In regard to the question of application of the Code to corporations vis-à-vis real persons, business form or type should not negate nor influence conformance of individuals to the Code. The Code deals with professional services, which services must be performed by real persons. Real persons in turn establish and implement policies within business structures. The Code is clearly written to apply to the Engineer, and it is incumbent on members of NSPE to endeavor to live up to its provisions. This applies to all pertinent sections of the Code.