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Ethics - Case Studies in Stealing Trade Secrets

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Introduction

The United States Patent and Trademark Office defines a trade secret as information that:

1. has either actual or potential independent economic value by virtue of not being generally known,
2. has value to others who cannot legitimately obtain the information, and
3. is subject to reasonable efforts to maintain its secrecy.

The purpose of this course is to widen the professional engineer's understanding of engineering ethics through consideration of seven case studies of the theft of trade secrets by engineers. The studies describe actual cases that have been successfully prosecuted by agencies of the U.S. federal government. The ethical—rather than legal— aspects of the cases are developed by identifying specific passages in published Standards of Conduct for professional engineers that were violated by the engineers who were found guilty of theft.

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Case No. 1

Former GE Engineer Sentenced to 24 Months for Conspiring to Steal Trade Secrets

November 10, 2021

U.S. Attorney's Office, Northern District of California

ALBANY, NEW YORK – Jean Patrice Delia, age 46, of Montreal, Canada, was sentenced today to 24 months in prison for conspiring to steal trade secrets from the General Electric Company (GE).

The announcement was made by United States Attorney Carla B. Freedman and Janeen DiGuseppi, Special Agent in Charge of the Albany Field Office of the Federal Bureau of Investigation (FBI).

As part of his guilty plea entered on December 10, 2019, Delia admitted that he conspired with his business partner and co-defendant, Miguel Sernas, to compete against GE using trade secrets Delia stole from GE while employed by GE in Schenectady, New York. Delia admitted that he and Sernas, operating as ThermoGen Power Services, used the stolen trade secrets, as well as stolen marketing data, pricing information, and other confidential GE documents, to compete against GE around the world.

Delia, who was employed by GE as an engineer from 2001 through 2012, admitted to conspiring with Sernas from 2008 through 2019.

United States District Judge Mae A. D'Agostino also ordered Delia to pay \$1.4 million in restitution. Judge D'Agostino also ordered Delia to jail, denying his request for a date on which to self-report to prison.

Sernas, a citizen and resident of Mexico, was sentenced on December 10, 2019 to time served (approximately 12 months in jail) and ordered to pay \$1.4 million in restitution.

Updated November 10, 2021

Case No. 2

Former Silicon Valley Engineer Sentenced to Prison After Conviction for Stealing Marvell Trade Secrets

February 25, 2013

U.S. Attorney's Office, Northern District of California

SAN JOSE—Suibin Zhang was sentenced this morning following his conviction on five felony counts of theft of trade secrets by a federal district judge, United States Attorney Melinda Haag announced today.

United States District Judge Ronald M. Whyte sentenced Zhang to serve three months in prison, to be followed by a three-year term of supervised release. Among the conditions of supervised release are that Zhang shall perform 200 hours of community service. The defendant was also ordered to pay \$75,000 in restitution to the victim, Marvell Semiconductor Inc. (Marvell); that sum is to be paid in full on or before May 31, 2013. Judge Whyte stated that Zhang's conduct was "unacceptable" and that he hoped his sentence would carry a "strong deterrent message."

In a verdict published on May 29, 2012, Judge Whyte found Zhang guilty of three counts of theft and copying of trade secrets for downloading the trade secrets from a secure database, one count of duplication of trade secrets for loading those trade secrets onto a laptop provided by his new employer, and one count of possession of stolen trade secrets. Zhang was acquitted of three counts of computer fraud and one count of unauthorized transmission of a trade secret. The guilty verdict followed a two-and-a-half-week trial before Judge Whyte, which began on October 24, 2011 and concluded on November 9, 2011.

Evidence at trial showed that Zhang, 44, of Belmont, California, was employed as a Project Engineer at Netgear Inc., of San Jose, which gave him access to Marvell's secure database ("Extranet"). On March 8, 2005, Zhang accepted a position at Broadcom Corporation (Broadcom), which is also Marvell's chief competitor. Beginning the very next day, March 9, 2005, and continuing on two other days before he left Netgear, Zhang used his Netgear account to download and steal trade secret information found in dozens of documents, datasheets, hardware specifications, design guides, functional specifications, application notes, board designs, and other confidential and proprietary items from Marvell. On April 27, 2005, Zhang loaded the Marvell trade secrets onto a laptop issued by Broadcom, where they continued to

reside on June 24, 2005, when the FBI served search warrants at Zhang's home and at Broadcom and took possession of his laptop.

"The protection of intellectual property rights, especially in Silicon Valley, is of vital importance to the economic security of our region," said United States Attorney Melinda Haag.

"The investigation and prosecution of thefts of trade secrets remains a significant priority for this office. I certainly hope the court's sentence sends a strong message that in addition to the personal, professional, and financial costs, which are significant in themselves, these offenses result in prison time."

Case No. 3

Former Engineer at Two Global Medical Technology Corporations Sentenced to 18 Months in Prison for Theft of Trade Secrets

October 16, 2014

U.S. Attorney's Office, District of New Jersey

TRENTON, NJ—An engineer who formerly lived in Mahwah, New Jersey, was sentenced today to 18 months in prison for stealing trade secrets from two global medical technology companies based in northern New Jersey, U.S. Attorney Paul J. Fishman announced.

Ketankumar Maniar, 38, aka “Ketan Maniar,” previously pleaded guilty before U.S. District Judge Joel A. Pisano to an information charging him with two counts of theft and attempted theft of trade secrets for his own economic benefit. Maniar, an Indian national, has been in custody since his June 2013 arrest. Judge Pisano imposed the sentence today in Trenton federal court.

According to documents filed in this case and statements made in court:

C.R. Bard Inc. (Bard), based in Murray Hill, New Jersey, and Becton, Dickinson and Co. (BD), based in Franklin Lakes, New Jersey, are among the world’s leading manufacturers of medical technologies. From November 2004 until his resignation on Jan. 22, 2011, Maniar worked as an engineer at Bard’s Salt Lake City facility and was responsible for developing molding processes and specifications for catheters, ports and other medical products. From February 2012 until his resignation on May 24, 2013, Maniar worked as a staff engineer at BD’s Franklin Lakes headquarters, where he helped manufacture pre-fillable syringes and pen injectors.

Through his work at Bard and BD, Maniar was able to steal secret information related to the companies’ products, including Bard’s development of the first implantable port used for power injection of pharmaceutical drugs throughout the body. Maniar also had access to secret information related to a self-administered disposable pen injector still under development by BD and not yet available for commercial sale.

Maniar admitted he stole Bard and BD trade secrets that he kept after his resignation from those companies. Maniar downloaded numerous files containing Bard or BD product information from his work computers onto multiple computer storage devices, including external hard drives and thumb drives. He also used his work e-mail accounts at Bard and BD to forward trade secrets to his personal e-mail accounts.

On June 3, 2013, pursuant to court-issued federal warrants, FBI agents searched Maniar's rental car and the New Jersey hotel room he stayed in while planning a move back to India. Agents seized—among other things—at least one hard drive containing Bard and BD trade secrets.

In addition to the prison term, Judge Pisano ordered Maniar to pay \$32,454 in restitution to BD and ordered him to forfeit items used in furtherance of his crimes, including computers and storage devices.

Case No. 4

Local Chemical Engineer Must Pay Approximately \$4 Million in Restitution for Unlawfully Possessing Trade Secrets

August 19, 2016

U.S. Attorney's Office, Northern District of Texas

DALLAS — A Ph.D. chemical engineer from Sunnyvale, Texas, Dr. Mattias Tezock, 53, who admitted unlawfully possessing trade secrets from his former employer, Voltaix LLC, has been ordered by Chief U.S. District Judge Barbara M. G. Lynn to pay approximately \$4 million in restitution to this former employer as part of the five-year term of probation that resulted from his pleas of guilty in this case. The trade secrets at issue concerned the manufacture, synthesis, and purification of germane gas, a specialty chemical used in the semiconductor and solar energy industries. Today's announcement was made by U.S. Attorney John Parker of the Northern District of Texas.

In August 2015, Tezock pleaded guilty to four counts of unlawful possession of a trade secret. The facts supporting the guilty pleas established that from mid-April 2004 through September 2005, Tezock was employed as a chemical engineer at Voltaix, LLC, a multinational corporation headquartered in North Branch, New Jersey. Over approximately 25 years and at great expense, Voltaix developed a specific, industry-leading and exacting secret and confidential scientific method to make and purify germane gas to specifications required by its customers. Tezock further admitted that Voltaix took reasonable measure to keep this information secret and confidential and that Voltaix derived economic value from it not being known to, or readily ascertainable through proper means, by the public. As part of his employment at Voltaix, Tezock agreed to and signed non-compete and employee confidentiality forms that prohibited him from improper disclosures of Voltaix's confidential, proprietary, and trade secret information.

Voltaix terminated Tezock's employment in September 2005. Thereafter, Tezock moved to Texas where he established Metaloid Precursors, Inc., a company based in Terrell, Texas, that manufactured, produced, purified, and sold the specialty gas, germane. Almost immediately upon his termination from Voltaix, Tezock began taking steps to misappropriate Voltaix's confidential, proprietary, and trade secret recipe and process for manufacturing and purifying

germane gas and later attempting to steal business from Voltaix by actively soliciting at least one of Voltaix's customers.

During subsequent civil litigation brought by Voltaix, Tezock took steps to hide his possession of trade secret information by deleting files or manipulating computer evidence in order to prevent Voltaix from learning the scope and magnitude of his breach. Tezock also provided false testimony under oath in a deposition during the civil litigation.

As part of the plea agreement resolving the criminal charges, Tezock agreed to take steps to terminate his business and destroy the germane processing plant. Among other things, immediately upon entering the guilty plea, Tezock immediately was required to cease and desist accepting, soliciting, receiving, or entering into new orders, soliciting business, or engaging in any manufacturing or refining work at Metaloid Precursors. Tezock further surrendered the keys to the Metaloid Precursors building and later worked to dismantle, destroy, and remove all hardware, chemicals, and equipment used in the manufacturing and synthesis of germane and related gases.

As part of his punishment, Chief Judge Lynn accepted the parties' plea agreement which included a five-year term of probation with a prohibition that during the term of probation, Tezock was not permitted to work in any capacity with germane gas or other specialty chemicals. Tezock was further prohibited from disclosing to any person or entity in any manner any proprietary, confidential, or trade secret information of Voltaix.

Updated August 19, 2016

Case No. 5

Two Engineers Found Guilty of Stealing Goodyear Trade Secrets

December 9, 2010

Department of Justice, Office of Public Affairs

WASHINGTON – A federal jury convicted Clark Alan Roberts, 47, and Sean Edward Howley, 39, both former engineers with Wyko Tire Technology Incorporated, located in Greenback, Tenn., of stealing trade secrets from the Goodyear Tire and Rubber Company, Assistant Attorney General Lanny A. Breuer of the Criminal Division and U.S. Attorney William C. Killian for the Eastern District of Tennessee announced today.

After a one-week trial, the jury found Roberts and Howley guilty of one count of conspiracy to commit trade secret theft, one count of trade secret theft, one count of unlawful photographing of trade secrets, three counts of transmittal of trade secrets, one count of possession of trade secrets, two counts of wire fraud and one count of conspiracy to commit wire fraud.

"Unable to create an effective design on their own, these engineers stole trade secrets from a competitor in order to fulfill a contract," said Assistant Attorney General Breuer. "We will not allow the hard work and resources businesses put into product development to be compromised by individuals who unlawfully obtain protected secrets."

"The ruling in this case will send a message that complicated trade secret violations will be aggressively investigated and prosecuted by U.S. Attorney's Offices and the Department," said U.S. Attorney Killian.

According to the evidence presented in court, Wyko secured a \$1.2 million contract in early 2007 with the Haohua South China Guilin Rubber Company Limited (HHSC), a Chinese tire manufacturing company located in Guilin, Peoples Republic of China, to supply tire building equipment for use in producing radial "off the road" (OTR) tires, which are used on very large earth moving and mining equipment. Wyko was in the business of making tire building equipment for Goodyear and other tire manufacturers. One of the pieces of equipment that Wyko agreed to sell to HHSC was called a swab down device, which is used during the manufacture of a giant OTR tire. However, Wyko had never built a swab down device before and was having difficulty in the spring of 2007 completing their design of the swab down device.

On May 30 and 31, 2007, Roberts and Howley, traveled to a Goodyear tire manufacturing facility located in Topeka, Kan., to service Wyko equipment located in the Goodyear plant with the intention of taking photographs of Goodyear's swab down device to assist them with completing their design even though they knew Goodyear protected the swab down device as a trade secret. On May 31, 2007, the defendants used a cell phone camera to surreptitiously take seven unauthorized photographs of a Goodyear swab down device, without the knowledge or permission of Goodyear. The defendants then emailed the unauthorized photographs to employees at a Wyko subsidiary located in Dudley, England, who used the trade secret information contained in the photographs to complete a similar piece of tire building equipment for the HHSC contract.

The defendants are scheduled to be sentenced on the 10 felony counts by U.S. District Court Judge Thomas Phillips on April 14, 2011. The defendants face a maximum of 10 years in prison for each trade secret count, 20 years in prison for each wire fraud count and \$2.5 million in fines.

Case No. 6

Former Engineer Sentenced for Possessing Stolen Semiconductor Trade Secret

June 1, 2023

U.S. Attorney's Office, District of Massachusetts

BOSTON – A Lexington, Mass. man was sentenced today in Boston federal court for possessing the stolen prototype design of a microchip, known as the HMC1022A, which was owned and developed by his former employer, Analog Devices, Inc. (ADI), a semiconductor company headquartered in Wilmington, Mass. This chip is used in both aerospace and defense applications.

Haoyang Yu, 45, was sentenced by U.S. Senior District Court Judge William G. Young to six months in prison to be followed by three years of supervised release, during which he may not work in the microchip industry. Yu was also ordered to pay a fine of \$55,000 and restitution to be determined at a later date. In May 2022, following a month-long trial, a federal jury convicted Yu of possessing ADI's stolen trade secret. The jury acquitted Yu of alleging possession of other stolen trade secrets, wire fraud, immigration fraud, and the illegal export of controlled technology.

“This prosecution demonstrates the Department of Justice’s commitment to protecting the integrity of the semiconductor market, as this technology plays a critical role in both our country’s industrial policy and geopolitical strategy. Mr. Yu stole intellectual property from his employer, plain and simple, and used that pilfered information to line his own pocket. I commend the work of the Department of Commerce, the Department of Homeland Security, the FBI, and the Naval Criminal Investigation Service in their dedicated work to the investigation and prosecution of this matter,” said Acting United States Attorney Joshua S. Levy.

“Yu was convicted by a federal jury of stealing trade secret associated with the design for a semiconductor utilized in defense and aerospace industries. As a result of an intensive investigation, Yu is facing federal prison for his crime,” said Michael J. Krol, Acting Special

Agent in Charge of the Homeland Security Investigations in New England. “HSI works tirelessly with our local, state, and federal partners to ensure the security of sensitive U.S. strategic technologies and will continue to disrupt and dismantle any attempts to obtain them for financial gain.”

“Today, Mr. Yu learned his fate for possessing a stolen semiconductor trade secret for his own financial gain. Thankfully, his actions did not destroy his former employer’s business,” said Joseph R. Bonavolonta, Special Agent in Charge of the Federal Bureau of Investigation, Boston Division. “While we all welcome fair competition, the FBI will not tolerate stealing and cheating. It’s illegal, unethical, and unfair, and this type of criminal conduct hurts American businesses, jobs, and consumers.”

Between 2014 and 2017, Yu worked at ADI, where he designed microchips used by the communications, defense, and aerospace industries. Through his employment, Yu had access to various kinds of ADI intellectual property, including present and future microchip designs, schematics, layouts, modeling files, customer lists, and ordering histories.

While employed at ADI, Yu used this information to start his own microchip business, Tricon MMIC, LLC. Forensic analysis later showed that Yu’s personal, at-home computer held exact, bit-for-bit copies of hundreds of ADI intellectual property files. Trial evidence showed that Yu had accessed these files on ADI’s secure servers, copied them, changed their filenames – often to those of cartoon characters, and then saved them on his personal electronic accounts and devices.

Trial evidence showed that all of the chips Yu’s business sold were built with ADI’s stolen intellectual property. In particular, Yu used the stolen HMC1022A design to manufacture two knock-off versions of ADI’s chip. Yu then began selling his versions of the HMC1022A to ADI’s customers and others even before ADI went to market with its own completed design. In all, before his arrest, Yu manufactured about 10,000 chips built with stolen ADI property and grossed about \$235,000. ADI cooperated fully in the government’s investigation.

Updated June 1, 2023

Case No. 7

Engineer Sentenced to Federal Prison after Admitting Conspiracy to Steal Aircraft Design Secrets

Thursday, October 20, 2022

U.S. Attorney's Office, Southern District of Georgia

SAVANNAH, GA: A South Carolina man who led a conspiracy to steal trade secrets from aircraft companies has been sentenced to nearly seven years in prison.

Gilbert Basaldua, 63, of Hilton Head, S.C., was sentenced to 80 months in prison after previously pleading guilty to Conspiracy to Steal Trade Secrets and Interstate Transportation of Stolen Property, said David H. Estes, U.S. Attorney for the Southern District of Georgia. U.S. District Court Judge William T. Moore Jr. also ordered Basaldua to serve three years of supervised release after completion of his prison term. There is no parole in the federal system. “Theft is theft, whether it’s a bag full of cash or a digital file holding specialized design information – and Gilbert Basaldua and his co-conspirators are thieves,” said U.S. Attorney Estes. “This sentence will hold him accountable for attempting to enrich himself by stealing valuable information from a private company.”

As spelled out in court documents and testimony, Basaldua worked as a numerical control engineer contractor for an aircraft manufacturer in the Southern District from October 2016 through November 2018. During that time, Basaldua conspired with his co-conspirators to steal valuable proprietary aircraft wing designs and anti-icing testing information from various aircraft manufacturers, including the company where Basaldua worked. The conspirators intended to use the stolen information to quicken the process of obtaining Federal Aviation Administration certification for another company’s product.

Basaldua was on trial on the charges in September 2021 when he pled guilty during the second day of testimony.

“Basaldua and his co-conspirators betrayed the trust placed in them by their employers for outright greed,” said Keri Farley, Special Agent in Charge of FBI Atlanta. “The FBI will continue to work with our partners to stop people who are out to illegally enrich themselves.”

Updated April 19, 2023

Violations of Standards of Conduct

U.S. States and territories have laws and regulations, including standards of conduct, that cover engineering practice. These standards vary from state to state. For the purposes of the present course, the standards of two states were selected and are given in Appendices A and B. Taken together, these two standards address most of the issues present in the standards of all states and in the ethical codes of many professional societies.

In the discussion below, the Standards of Conduct shall be assumed to apply to the convicted individuals as if they held a license as a professional engineer, even though no information is available about their actual registration status.

All of the convicted individuals violated several of the Standards of Conduct of both State A and B. First, by stealing trade secrets, they violated State A Standard (6)(i), which states that a professional engineer shall not use his engineering expertise to commit a felony. Similarly, State B Standard (3)(C) states that an engineer shall not knowingly violate any state or federal criminal law.

Second, they violated State A Standard (6)(r), which states that “Revealing facts, data or information obtained in a professional capacity without the prior consent of the professional engineer’s client or employer except as authorized or required by law” constitutes “misconduct in the practice of engineering.” And they violated State B Standard (3)(N), which forbids revealing “confidential, proprietary, or privileged facts or data, or any other sensitive information obtained in a professional capacity without the prior consent of the client or employer.”

Third, they violated State A Standard (6)(m), which says that if an engineer has knowledge or reason to believe that any person or firm is guilty of violating any of the rules of professional conduct the engineer must immediately present this information to the board of professional engineering. The convicted engineers knew that their own actions violated rules of professional conduct, but they, for obvious reasons, did not present this information to the board. Similarly, they violated State B Standard (4), which requires engineers having knowledge of any violation of the State Standards to cooperate with the proper authorities in furnishing information or assistance as may be required.

Appendix A. Standards of Conduct for State A

(1) Pursuant to State statute, the board hereby specifies that the following acts or omissions are grounds for disciplinary proceedings.

(2) A professional engineer shall not advertise in a false, fraudulent, deceptive or misleading manner. As used in State statutes, the term “advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content” shall include without limitation a false, fraudulent, misleading, or deceptive statement or claim which:

- (a) Contains a material misrepresentation of facts;
- (b) Omits to state any material fact necessary to make the statement in the light of all circumstances not misleading;
- (c) Is intended or is likely to create an unjustified expectation;
- (d) States or implies that an engineer is a certified specialist in any area outside of his field of expertise;
- (e) Contains a representation or implication that is likely to cause an ordinary prudent person to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive;
- (f) Falsifies or misrepresents the extent of his education, training or experience to any person or to the public at large, tending to establish or imply qualification for selection for engineering employment, advancement, or professional engagement. A professional engineer shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter of prior assignments;
- (g) In any brochure or other presentation made to any person or to the public at large, incident to the solicitation of an engineering employment, misrepresents pertinent facts concerning a professional engineer’s employer, employees, associates, joint ventures, or his or their past accomplishments with the intent and purpose of enhancing his qualifications and his works.

(3) A professional engineer, corporation or partnership, or other qualified business organization (“firm”) shall not practice engineering under an assumed, fictitious or corporate name that is misleading as to the identity, responsibility or status of those practicing thereunder or is otherwise false, fraudulent, misleading or deceptive within the meaning of State Administrative Code. When a qualified business organization or individual is practicing engineering as a sole proprietor under a combination of his own given name, and terms such as “engineering,” “and associates” or “and company,” then said

person or qualified business organization is practicing engineering under a fictitious name, and must be qualified by a State professional engineer.

(4) A professional engineer shall not be negligent in the practice of engineering. The term negligence set forth in State statutes, is herein defined as the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles. Professional engineers shall approve and seal only those documents that conform to acceptable engineering standards and safeguard the life, health, property and welfare of the public.

Failure to comply with the procedures set forth in the Responsibility Rules as adopted by the board of Professional Engineers shall be considered as non-compliance with this section unless the deviation or departures therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer.

(5) A professional engineer shall not be incompetent to practice engineering. Incompetence in the practice of engineering as set forth in State statutes, shall mean the physical or mental incapacity or inability of a professional engineer to perform the duties normally required of the professional engineer.

(6) A professional engineer shall not commit misconduct in the practice of engineering. Misconduct in the practice of engineering as set forth in State statutes, shall include, but not be limited to:

(a) Expressing an opinion publicly on an engineering subject without being informed as to the facts relating thereto and being competent to form a sound opinion thereupon;

(b) Being untruthful, deceptive, or misleading in any professional report, statement, or testimony whether or not under oath or omitting relevant and pertinent information from such report, statement or testimony when the result of such omission would or reasonably could lead to a fallacious conclusion on the part of the client, employer or the general public;

(c) Performing an engineering assignment when not qualified by training or experience in the practice area involved;

1. All professional engineer asbestos consultants are subject to the provisions of State statutes and administrative law, and shall be disciplined as provided therein.

2. The approval of any professional engineer as a “special inspector” under the provisions of State statute., does not constitute acceptance by the board that any

such professional engineer is in fact qualified by training or experience to perform the duties of a “special inspector” by virtue of training or experience. Any such professional engineer must still be qualified by training or experience to perform such duties and failure to be so qualified could result in discipline under this chapter;

- (d) Affixing a signature or seal to any engineering plan of document in a subject matter over which a professional engineer lacks competence because of inadequate training or experience;
- (e) Offering directly or indirectly any bribe or commission or tendering any gift to obtain selection or preferment for engineering employment with the exception of the payment of the usual commission for securing salaried positions through licensed employment agencies;
- (f) Becoming involved in a conflict of interest with an employer or client, without the knowledge and approval of the client or employer, but if unavoidable a professional engineer shall immediately take the following actions:
 - 1. Disclose in writing to his employer or client the full circumstances as to a possible conflict of interest; and,
 - 2. Assure in writing that the conflict will in no manner influence the professional engineer’s judgment or the quality of his services to his employer or client; and,
 - 3. Promptly inform his client or employer in writing of any business association, interest or circumstances which may be influencing his judgment or the quality of his services to his client or employer;
- (g) Soliciting or accepting financial or other valuable considerations from material or equipment suppliers for specifying their products without the written consent to the engineer’s employer or client;
- (h) Soliciting or accepting gratuities directly or indirectly from contractors, their agents or other parties dealing with the professional engineer’s client or employer in connection with work for which the professional engineer is responsible without the written consent of the engineer’s employer or client;
- (i) Use by a professional engineer of his engineering expertise and/or his professional engineering status to commit a felony;
- (j) Affixing his seal and/or signature to plans, specifications, drawings, or other documents required to be sealed pursuant to State statute, when such document has not been personally prepared by the engineer or prepared under his responsible supervision, direction and control;
- (k) A professional engineer shall not knowingly associate with or permit the use of his

name or firm name in a business venture by any person or firm which he knows or has reason to believe is engaging in business or professional practices of a fraudulent or dishonest nature;

(l) If his engineering judgment is overruled by an unqualified lay authority with the results that the public health and safety is threatened, failure by a professional engineer to inform his employer, responsible supervision and the responsible public authority of the possible circumstances;

(m) If a professional engineer has knowledge or reason to believe that any person or firm is guilty of violating any of the provisions of State statute, or any of these rules of professional conduct, failure to immediately present this information to the board;

(n) Violation of any law of the State directly regulating the practice of engineering;

(o) Failure on the part of any professional engineer or qualified business organization to obey the terms of a final order imposing discipline upon said professional engineer or qualified business organization;

(p) Making any statement, criticism or argument on engineering matters which is inspired or paid for by interested parties, unless the professional engineer specifically identifies the interested parties on whose behalf he is speaking, and reveals any interest he or the interested parties have in such matters;

(q) Sealing and signing all documents for an entire engineering project, unless each design segment is signed and sealed by the professional engineer in responsible charge of the preparation of that design segment;

(r) Revealing facts, data or information obtained in a professional capacity without the prior consent of the professional engineer's client or employer except as authorized or required by law.

(s) Renewing or reactivating a license without completion of Continuing Education (CE) hours and subject areas as required by State statute and administrative code.

Appendix B. Standards of Conduct for State B

PURPOSE: This rule establishes a professional code of conduct for professional engineers.

(1) Definitions.

- (A) Board—The Board for Professional Engineers.
- (B) Licensee—Any person licensed as a professional engineer under the provisions of State statutes.

(2) The State Rules of Professional Conduct for Professional Engineers Preamble reads as follows: The board adopts the following rules, referred to as the rules of professional conduct. These rules of professional conduct are binding for every licensee. Each person licensed is required to be familiar with the rules of the board. The rules of professional conduct will be enforced under the powers vested in the board. Any act or practice found to be in violation of these rules of professional conduct may be grounds for a complaint to be filed with the Administrative Hearing Commission.

(3) In practicing professional engineering, a licensee shall—

- (A) Act with reasonable care and competence and apply the technical knowledge and skill which are ordinarily applied by professional engineers of good standing, practicing in the State. In the performance of professional services, licensees hold their primary responsibility to the public welfare which should not be compromised by any self-interest of the client or the licensee.
- (B) Undertake to perform professional engineering services only when they are qualified by education, training, and experience in the specific technical areas involved.
- (C) In the conduct of their practice, not knowingly violate any state or federal criminal law.
- (D) Comply with state laws and regulations governing their practice. In the performance of professional engineering services within a municipality or political subdivision that is governed by laws, codes, and ordinances relating to the protection of life, health, property, and welfare of the public, a licensee shall not knowingly violate these laws, codes, and ordinances.
- (E) Recognize that their primary obligation is to protect the safety, health, property, or welfare of the public. If the professional judgment is overruled under circumstances

where the safety, health, property, or welfare of the public are endangered, they are to notify their employer or client and other authority as may be appropriate.

- (F) Not assist non-licensees in the unlawful practice of professional engineering.
 - (G) Not assist in the application for licensure of a person known by the licensee to be unqualified in respect to education, training, experience, or other relevant factors.
 - (H) Truthfully and accurately represent to others the extent of their education, training, experience, and professional qualifications and not misrepresent or exaggerate the scope of their responsibility in connection with prior employment or assignments.
 - (I) Not accept compensation, financial or otherwise, from more than one party, for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties. The disclosure and agreement shall be in writing.
 - (J) Make full disclosure, suitably documented, to their employers or clients of potential conflicts of interest, or other circumstances which could influence or appear to influence their judgment on significant issues or the unbiased quality of their services.
 - (K) Not offer, give, solicit, or receive, either directly or indirectly, any commission, contributions, or valuable gifts, in order to secure employment, gain an unfair advantage over other licensees, or influence the judgment of others in awarding contracts for either public or private projects. This provision is not intended to restrict in any manner the rights of licensees to participate in the political process; to provide reasonable entertainment and hospitality; or to pay a commission, percentage, or brokerage fee to a bona fide employee or bona fide established commercial or marketing agency retained by the licensee.
 - (L) Not solicit or accept financial or other valuable consideration, either directly or indirectly, from contractors, suppliers, agents, or other parties in return for endorsing, recommending, or specifying their services or products in connection with work for employers or clients.
 - (M) Not attempt to, directly or indirectly, injure the professional reputation, prospects of practice or employment of other licensees in a malicious or false manner, or both.
 - (N) Not reveal confidential, proprietary, or privileged facts or data, or any other sensitive information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law or rules of this board.
- (4) Licensees having knowledge of any alleged violation of this Code shall cooperate with the proper authorities in furnishing information or assistance as may be required.