



*An Online PDH Course
brought to you by
CEDengineering.com*

Engineering Ethics - Case Studies in Bribery

Course No: LE2-017
Credit: 2 PDH

Mark Rossow, P.E., PhD



Continuing Education and Development, Inc.

P: (877) 322-5800
info@cedengineering.com

www.cedengineering.com

TABLE OF CONTENTS

Introduction	1
Case No.1	2
Case No.2	4
Case No. 3	6
Case No. 4	7
Case No. 5	8
Case No. 6	10
Case No. 7	12
Violations of Standards of Conduct	14
Appendix A. Standards of Conduct for State A	16
Appendix B. Standards of Conduct for State B.....	20

Introduction

Bribery may be defined as something of value given with the intent of influencing the judgment or conduct of a person in a position of trust. Bribery is one of the few crimes mentioned explicitly in almost all engineering Codes of Ethics or Standards of Conduct, perhaps because so many engineers are involved in the awarding of construction contracts—a widespread activity that by its nature is especially susceptible to covert influence arrangements.

The purpose of this course is to widen the professional engineer's understanding of engineering ethics, through consideration of seven case studies of bribery. The studies are actual cases that have been successfully prosecuted by agencies of the Federal government. The ethical aspects of the bribery cases are developed by identifying the particular Standards of Conduct for engineers that were violated by the actions of the convicted engineers.

Case No.1

Former Department of Veterans Affairs Official Sentenced to 46 Months in Prison for Taking \$1.2 Million in Kickbacks

June 30, 2015

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

TRENTON, NJ—A former Department of Veterans Affairs (VA) employee who worked as a supervisory engineer at the VA's campus in East Orange, New Jersey, was sentenced today to 46 months in prison for accepting more than \$1.2 million in kickback payments in connection with VA contracts awarded to companies with which he had relationships, and to engaging in a scheme to defraud the VA by claiming one of those companies was owned by a service-disabled veteran when it was not, U.S. Attorney Paul J. Fishman announced.

Jarod Machinga, 45, of Hopewell, New Jersey, previously pleaded guilty before U.S. District Judge Mary L. Cooper to an information charging him with one count of honest services wire fraud, one count of wire fraud and one count of engaging in a monetary transaction in criminally derived property. Judge Cooper imposed the sentence today in Trenton federal court. According to documents filed in this case and statements made in court:

As a supervisory engineer, Machinga had the authority and influence to direct certain VA construction contracts to particular companies. Machinga partnered with a person—identified in the information as “Individual 1”—to set up three companies that could be used to obtain VA work. He then directed more than \$6 million worth of VA construction projects to those companies. Machinga admitted he accepted \$1,277,205 in kickbacks in exchange for his official action and influence between 2007 and July 2012.

Congress has established a program through which certain VA contracts are reserved for small businesses that are owned and controlled by service-disabled veterans. One of Individual 1's companies entered into such a contract with the VA after Machinga falsely represented to the VA that it was a service-disabled veteran-owned small business—even though Individual 1 was not a veteran. Machinga then used his official position and influence at the VA to award such a contract to Company 1. The company was paid more than \$3 million by the VA in connection with the contract.

Machinga also admitted that for many of the projects awarded to Individual 1's companies, he recruited other contractors to perform the work so the companies were able to keep the money paid to them without having to incur the expense of actually completing the projects.

In addition to the prison term, Judge Cooper sentenced Machinga to serve one year of supervised release.

U.S. Attorney Fishman credited special agents of the Department of Veterans Affairs, Office of Inspector General, under the direction of Special Agent in Charge Jeffrey Hughes; the FBI, under the direction of Special Agent in Charge Richard M. Frankel; and IRS-Criminal Investigation, under the direction of Special Agent in Charge Jonathan D. Larsen, with the investigation leading to today's sentencing.

The government is represented by Assistant U.S. Attorneys Vikas Khanna of the U.S. Attorney's Office Special Prosecutions Division and Peter Gaeta of the U.S. Attorney's Office Asset Forfeiture and Money Laundering Unit in Newark.

Case No.2

Engineering Firm Owner Sentenced for Bribing Washington Township Officials

February 7, 2020

U.S. Attorney's Office, Eastern District of Michigan

An owner of an engineering firm, Fazlullah Khan , 58, of Troy, was sentenced yesterday to 132 months as a result of having been convicted by a jury on four counts of bribery, United States Attorney Matthew Schneider announced.

Schneider was joined in the announcement by Steven D’Antuono, Special Agent in Charge of the Detroit Field Office of the Federal Bureau of Investigation.

Khan was convicted in July, 2019 after a five-day trial that was conducted before United States District Judge Robert H. Cleland in Port Huron, Michigan. The jury deliberated approximately an hour and a half before returning their guilty verdicts.

According to evidence presented at trial, in 2014, Khan bribed one public official of Washington Township with \$10,000 in cash in return for a million dollar per year engineering contract, and another public official there with a secret financial interest in a property development deal worth hundreds of thousands of dollars for his assistance with the contract and efforts to get water and sewer lines to Khan’s property. Unbeknownst to Khan, both township officials that he was trying to bribe were working with the FBI.

“Our office is continuing our battle against bribery and corruption every day and this sentence will hopefully serve as a deterrent to others who seek to engage in a pay-to-play scheme,” United States Attorney Matthew Schneider stated.

The sentence in this case should serve as a deterrent to anyone who tries to entice a public official to behave against the public’s interest through offering bribes,” said Special Agent in Charge D’Antuono. “Corruption in any form degrades the integrity of our democracy and will not be tolerated. Our justice system relies upon citizens to report this type of criminal activity and I would encourage anyone who has information about public corruption to contact the FBI.”

This case is part of the government’s wide-ranging corruption investigation centered in Macomb County, Michigan. The investigation of this case was conducted by the Federal Bureau of Investigation. The case is being prosecuted by Assistant U.S. Attorneys R. Michael Bullotta and Steven Cares.

The conviction of Khan brings to 22 the number of individuals convicted in this corruption investigation.

Updated February 7, 2020

Case No. 3

Owner Of Herndon Engineering Firm Convicted Of Paying Bribes To A Government Official

July 21, 2014

U.S. Attorney's Office, Eastern District of Virginia

ALEXANDRIA, Va. – Francisco L. Bituin, 58, of Sterling, Virginia, pleaded guilty today to paying bribes to a GSA official in exchange for the official's assistance in obtaining government contracts for Bituin's engineering firm.

Dana J. Boente, U.S. Attorney for the Eastern District of Virginia; Robert C. Erickson, Jr., Acting Inspector General for the U.S. General Services Administration (GSA); and Valerie Parlave, Assistant Director in Charge of the FBI's Washington Field Office, made the announcement after the plea was accepted by U.S. District Judge Claude M. Hilton.

Bituin is the owner of FLBE, Inc., an engineering firm located in Herndon, Virginia, that has received over \$30 million in government contracts since 2003. In a statement of facts filed with his plea agreement, Bituin admitted to paying bribes to a GSA employee who was in a position to recommend FLBE for GSA-managed contracts. The bribes included a \$3,750 golf club membership and \$2,000 in cash passed by the defendant to the GSA employee during lunch at a Tysons Corner, Virginia restaurant. On another occasion, Bituin offered the GSA employee other things of value in exchange for his assistance in obtaining GSA contracts, including access to a retirement home in Las Vegas, the down payment on a home in Virginia, and 5% of the equity in FLBE.

Bituin faces a maximum penalty of fifteen years in prison when he is sentenced on Nov. 7, 2014.

This case was investigated by GSA's Office of the Inspector General and the FBI's Washington Field Office. Assistant U.S. Attorney Paul J. Nathanson is prosecuting the case.

Case No. 4

Former Chief Engineer for Macomb County Public Works Department Pleads Guilty to Bribery Conspiracy

Wednesday, September 27, 2017

U.S. Attorney's Office, Eastern District of Michigan

A former Chief Engineer for Macomb County's Public Works Department, James Pistilli, 68, of Holly, pleaded guilty today to conspiracy to commit bribery, Acting United States Attorney Daniel L. Lemisch announced.

Lemisch was joined in the announcement by David P. Gelios, Special Agent in Charge of the Detroit Field Office of the Federal Bureau of Investigation and Manny Muriel, Special Agent in Charge of the Detroit Field Office of the Internal Revenue Service.

The charge to which Pistilli pleaded guilty occurred in 2014. At that time, Pistilli worked for a private engineering firm. Pistilli conspired with fellow engineer Paulin Modi and others to pay a \$2,000 cash bribe to Steven Hohensee, who was then the Superintendent of the Department of Public Works for Washington Township. Unbeknownst to Pistilli, Hohensee was cooperating with the FBI.

Pistilli is scheduled to be sentenced on January 30, 2018 at 1:30 p.m., and faces up to 5 years' imprisonment and a fine of \$250,000.

This case is part of the government's wide-ranging corruption investigation centered in Macomb County, Michigan. The investigation of this case was conducted by the Federal Bureau of Investigation and the Internal Revenue Service. The case is being prosecuted by Assistant U.S. Attorneys David A. Gardey and R. Michael Bullotta.

Case No. 5

President Of Engineering Firm Admits To Bribing Elected Officials In Allentown And Reading

May 10, 2016

U.S. Attorney's Office, Eastern District of Pennsylvania

PHILADELPHIA – Court documents were unsealed today in relation to the guilty plea entered by Matthew McTish, 57, of Orefield, PA. McTish pleaded guilty on April 28, 2016 to one count of conspiracy to commit bribery offenses, announced United States Attorney Zane David Memeger. McTish faces a maximum possible sentence of five years in prison, a possible fine, three years of supervised release, and a \$100 special assessment. U.S. District Judge Juan R. Sanchez scheduled a sentencing hearing for August 2, 2016.

McTish⁽¹⁾ was the president of an engineering firm which heavily relied on contracts with governmental organizations in Pennsylvania, including the cities of Allentown and Reading. Public Official #1, of Reading, PA, and Public Official # 3, of Allentown, PA, made clear to subordinates and donors that favorable official action would be withheld from certain donors who failed to provide satisfactory campaign contributions. By the same token, these elected officials directly and indirectly communicated to certain donors that they were expected to provide items of value, including campaign contributions, in return for certain past or prospective official actions in Reading and Allentown.

Public Official #1 and Public Official #3 identified certain engineering firms, including McTish's, as promising targets for their pay to play schemes. Public Official #1 and Public Official #3 believed that these firms were particularly vulnerable to fundraising solicitations by elected city officials because of the firms' reliance on municipal contracts and their desire to win such contracts in Reading and Allentown. Public Official #1 and Public Official #3 believed that for these firms, losing thousands of dollars to campaign treasuries was more acceptable than being shut out of consideration for millions of dollars' worth of contracts. McTish admitted that under pressure from Public Official #1, Public Official #3 and their subordinates, he agreed to remit thousands of dollars of campaign contributions in order to keep his company viable for consideration for municipal contracts in Reading and Allentown. McTish agreed to continue raising such contributions for Public Official #1 even after he had lost re-election so that Public Official #1 could help McTish's firm before leaving office.

McTish also agreed to reward Mary Ellen Koval with a campaign contribution for her efforts in helping Public Official #3 trying to steer a contract to his company.

After paying campaign contributions to reward Koval and Public Official #3 for their efforts to steer an Allentown city contract to his company, McTish learned that the city had cancelled its plans for the contract. When McTish met with Public Official #3 to discuss the prospects of future engineering contracts with the City of Allentown, Public Official #3 asked for even more money – this time asking McTish to raise at least \$21,600 before a federal campaign reporting deadline of June 30, 2015. Public Official #3 claimed that winning the federal campaign would allow him to provide greater assistance to McTish’s company. McTish was unhappy with Public Official #3’s demand but gave a \$2,500 contribution in order to maintain his company’s viability for future contracts from the City of Allentown.

This case is being investigated by the Federal Bureau of Investigation, the Internal Revenue Service Criminal Investigations, and the Pennsylvania State Police. It is being prosecuted by Assistant United States Attorneys Joe Khan, Michelle Morgan, and Anthony Wzorek.

[1] McTish was identified in pleadings in related cases (and in paragraph 15 of his own Information) as “Donor #2.”

Updated May 10, 2016

Case No. 6

Former Employee of U.S. Army Corps of Engineers in Afghanistan Pleads Guilty to Soliciting Approximately \$320,000 in Bribes from Contractors

July 25, 2017

U.S. Department, Office of Public Affairs

WASHINGTON – A former employee of the U.S. Army Corps of Engineers (USACE) based in Afghanistan pleaded guilty today to soliciting approximately \$320,000 in bribes from Afghan contractors in return for his assistance in U.S. government contracts.

Acting Assistant Attorney General Kenneth A. Blanco of the Justice Department’s Criminal Division; Acting U.S. Attorney Patrick D. Hansen of the Central District of Illinois; Special Agent in Charge Sean Cox of the FBI’s Springfield Field Office; Special Inspector General John F. Sopko for Afghanistan Reconstruction; Director Frank Robey of the U.S. Army Criminal Investigation Command’s (CID) Major Procurement Fraud Unit (MPFU); and the Defense Criminal Investigative Service’s (DCIS) made the announcement.

Mark E. Miller, 48, of Springfield, Ill., was charged in an Information filed on July 18, in the Central District of Illinois with one count of seeking and receiving bribes. He pleaded guilty before U.S. Magistrate Judge Tom Schanzle-Haskins in Springfield, Illinois. Miller is scheduled to be sentenced on November 30, by U.S. District Judge Richard H. Mills.

During the hearing, Miller admitted that he worked for the USACE from 2005 until 2015, including in Afghanistan from 2009 to 2012. During that time, Miller maintained a residence in Springfield. From February 2009 to October 2011, Miller was assigned to a military base, Camp Clark, in eastern Afghanistan. While in Afghanistan, Miller was the site manager and a contracting officer representative for a number of construction projects.

Miller further admitted that on Dec. 10, 2009, the USACE awarded a contract worth approximately \$2.9 million to an Afghan construction company for the construction of a road from eastern Afghanistan to the Pakistani border. This contract later increased in value to approximately \$8,142,300. Miller admitted that he oversaw the work of the Afghan company

on this road project, including verifying that the company performed the work called for by the contract and authorizing progress payments to the company by the USACE.

Miller admitted that, in the course of overseeing the contract with the Afghan company, he solicited approximately \$280,000 in bribes from the owners of the company, in return for assisting the company in connection with the road project, including making sure the contract was not terminated. Miller further admitted that, after the contract was no longer active, he solicited an additional \$40,000 in bribes in return for the possibility of future contract work and other benefits.

This matter was investigated by the FBI, DCIS, SIGAR and Army CID-MPFU. Trial Attorney Daniel Butler of the Criminal Division's Fraud Section and Assistant U.S. Attorney Gregory K. Harris of the Central District of Illinois are prosecuting the case.

Updated July 26, 2017

Case No. 7

U.S. Postal Service Engineer Pleads Guilty to Taking Illegal Gratuities from Postal Service Contractor

May 4, 2022

U.S. Attorney's Office, Eastern District of Michigan

DETROIT – Thomas Berluca, a Facilities Engineer for the United States Postal Service (USPS), pleaded guilty today to accepting over \$6,500 in illegal gratuities from a USPS contractor announced United States Attorney Dawn N. Ison.

Ison was joined in the announcement by Kenneth Cleevely, Special Agent in Charge of the Contract Fraud Investigations Division, United States Postal Service, Office of Inspector General (OIG).

Thomas Berluca, 61 years old, of Troy, Michigan, stands convicted of accepting illegal gratuities from Michael Rymar, who was the owner of a Rochester Hills company, Horizons Materials & Management LLC, which was awarded contracts to repair USPS buildings in Michigan and New York. According to court records, from 2015 to 2018, Berluca and other USPS engineers awarded Rymar's company over \$5 million in contracts. As a USPS Facilities Engineer, Berluca had the power to award no-bid contracts to contractors like Rymar so long as the contract was worth less than \$10,000. During the plea hearing, Berluca admitted that between 2013 and 2018, he had accepted over \$6,500 in illegal gratuities from Rymar because Rymar sought to continue to receive USPS work from Berluca. Berluca had awarded hundreds of thousands of dollars in work to Rymar. Berluca admitted accepting free construction work on his cottage (including exterior stairs and a new roof), free hotel rooms, and donations by Rymar to Berluca's preferred organization.

Separately, Rymar has been charged with and pleaded guilty to stealing government funds because he committed fraud in the USPS contracts which he had received. In that scheme, Rymar provided documentation to the USPS containing false and fraudulent statements, oftentimes dramatically and falsely overstating the amount he paid subcontractors to complete the repairs. Rymar also falsely inflated the amount he paid his own employees and the cost of materials on USPS jobs. Over the course of the three-plus year fraudulent scheme, Rymar stole over \$1.2 million from USPS out of the \$5 million in contracts he was awarded.

United States Attorney Ison stated, "Federal employees who corrupt the contracting process by accepting illegal gratuities from contractors will be caught and punished."

“We are gratified to have contributed to this investigation and applaud the exceptional work by the United States Attorney’s Office for both protecting the contracting process and overall program costs,” said Kenneth Cleevely, Special Agent in Charge, USPS OIG. “Along with the Department of Justice, the USPS OIG will continue to aggressively investigate those who would engage in fraudulent activities designed to defraud the Postal Service.”

Upon conviction for a violation of Title 18, United States Code, Section 201(c)(1)(B), gratuity to a public official, Berlucchi faces a maximum sentence of two years in prison and a fine of up to \$250,000.

Under the United States Sentencing Commission Guidelines, Berlucchi is facing a sentence of between 8 to 14 months in prison.

The investigation of this case was conducted by the of the United States Postal Service, Office of Inspector General. The case is being prosecuted by Assistant U.S. Attorney Steven Cares.

Updated May 4, 2022

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.

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.

In the seven cases, the convicted individuals violated several of the Standards of Conduct of both State A and B.

First, by committing the felony of bribery, they violated State A Standard (6)(i), which states that “Use by a professional engineer of his engineering expertise and/or his professional engineering status to commit a felony” constitutes “misconduct in the practice of engineering.” Similarly, they violated State B Standard (3)(C), which states that engineers shall “In the conduct of their practice, not knowingly violate any state or federal criminal law.”

Second, by awarding contracts on the basis of bribes rather than on competence and cost, the participants in acts of bribery potentially put the safety, health, and welfare of the public at risk. The participants thus violated State B (3)(A) and State B (3)(E), which state that the primary obligation of a professional engineer is to protect the property and welfare of the public.

Third, by offering, giving, soliciting, or receiving valuable gifts in exchange for influencing the judgment of others in awarding contracts, they violated State A Standard (6)(e) and State B Standard (3)(K), which explicitly prohibit such activities.

Fourth, they violated State A Standard (6)(k) which states that engineers shall not knowingly associate with any person or firm which he knows or has reason to believe is in business or professional practices of a fraudulent or dishonest nature. A person willing to give or receive a bribe would exhibit such a nature.

Lastly, 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 or 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.