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## RECKLESS ENGINEERS

**Behaviour leading to serious consequences!**

**If engineers do not take the time to consider the consequences of their actions, they risk, carrying out acts that are illegal and contrary to the code of ethics. To illustrate this, here is a recent case<sup>1</sup> involving a member of the Ordre who, in simply trying to further his career, made some very bad decisions.**

This engineer had been working for the past several years for a firm specialized in residual fuel oil and asphalt, a highly competitive field. As director of engineering, he had access to industrial secrets and other confidential information which were subject to confidentiality agreements signed with his employer.

At the time of the alleged violations, the engineer had approached his employer and suggested he change his status to that of an independent consultant. The employer refused but the engineer proceeded with the necessary steps to become a consultant. He announced his resignation and, a few days later, sent a service offer to his employer. That said, one important fact must be mentioned; this service offer contained confidential information belonging to the employer that the engineer had in his possession.

In fact, before leaving the company, the engineer had gradually transferred an important amount of confidential information relating to his employer to his new office. But why? Simply because he hoped to obtain service contracts from his employer, and not to benefit any of its competitors. This troublesome decision is soon followed by another one: in the days prior to his departure, the engineer signed a document with his employer in which he stated never having transferred any data and not possessing any information relating to the employer. Of course, this was a false statement.

**SOME VERY UNFORTUNATE REPERCUSSIONS**

Even though the engineer never used his employer's files, he also never attempted to return the files to their rightful owner. Having learned that their employee had transferred confidential files, the company filed a complaint with the Sûreté du Québec. This was to be the start of a series of serious events for the engineer. His home was searched and, a few months later, the engineer was arrested in the presence of his family, driven to a Sûreté du Québec station and questioned.

For its part, the Office of the Syndic conducted its investigation. The respondent cooperated throughout the entire process; he readily acknowledged having committed a serious offence and declared he was ready to face the consequences of his

actions. Before the Disciplinary Council, the engineer is accused of the following:

1. Having taken his employer's computer data – thereby violating section 3.02.01 of the Code of ethics and section 59.2 of the Professional Code.
2. Having neglected to take reasonable care of the property entrusted to him by a client and having used such property for purposes other than those for which they were given to him – thereby violating section 3.02.06 of the Code of ethics.
3. Having resorted to dishonest or doubtful practices by leading his employer to believe that he had returned all the goods belonging to the employer that were in his possession – thereby violating section 3.02.08 of the Code of ethics.
4. Having omitted to put his client's interest before his own – thereby violating section 3.05.01 of the Code of ethics.
5. Having neglected to respect the secrecy of the confidential information obtained during the course of his practice – thereby violating section 3.06.01 of the Code of ethics.
6. Having used confidential information to the prejudice of a client or with a view to deriving, directly or indirectly, an advantage for himself or for another person – thereby violating section 3.06.03 of the Code of ethics.
7. Having neglected to respond diligently to his client's written request to have documents or items returned to him – thereby violating section 3.07.06 of the Code of ethics.

Pursuant to these counts, the respondent is accused of having contravened seven (7) sections of the Code of ethics and one (1) section of the Professional Code. In considering the respondent's guilt as well as the possible sanctions, the Disciplinary Council took into account the fact that he admitted making a mistake, that he had not been subject to any prior disciplinary action and that he appeared truly remorseful. However, the Disciplinary Council also felt that the respondent's conduct was reprehensible and prejudicial to the profession as a whole.

Found guilty on seven counts<sup>2</sup>, the engineer is subject to four temporary removals from the role of the Ordre ranging from one (1) to six (6) months, to be served concurrently; he also received three (3) reprimands and was ordered to pay a \$3,000 fine, as well as all costs relating to the case. Furthermore, after having pleaded guilty before the criminal and penal division of the Court of Québec, the engineer's business, of which he is the sole shareholder, was ordered to pay a \$15,000 fine.

How does one avoid making such detrimental mistakes? By taking the time to analyze every situation involving ethical issues<sup>3</sup>. This can never be a waste of time ...

1. Case: CDOIQ 22-11-0389, Dany Corneau.
2. Given the rule prohibiting multiple convictions, the Disciplinary Council ordered a conditional stay of proceedings regarding section 59.2 of the Professional Code (count 1).
3. To learn more about this type of analysis, it is recommended that you read or reread the article entitled "Scenario of an ethical dilemma (Part 2)", published in the March 2012 edition of PLAN.

## Sections violated by the respondent

### Code of ethics of engineers

- Section 3.02.01 – "An engineer must fulfill his professional obligations with integrity."
- Section 3.02.06 – "An engineer must take reasonable care of the property entrusted to his care by a client and he may not lend or use it for purposes other than those for which it has been entrusted to him."
- Section 3.02.08 – "An engineer shall not resort nor lend himself to nor tolerate dishonest or doubtful practices in the performance of his professional activities."
- Section 3.05.01 – "An engineer must, in the practice of his profession, subordinate his personal interest to that of his client."
- Section 3.06.01 – "An engineer must respect the secrecy of all confidential information obtained in the practice of his profession."
- Section 3.06.03 – "An engineer shall not make use of confidential information to the prejudice of a client or with a view to deriving, directly or indirectly, an advantage for himself or for another person."
- Section 3.07.06 – "An engineer agrees to act with diligence on any request in writing made by his client for the purpose of taking back a document or item which the client had left with him."

### Professional Code

- Section 59.2 – "No professional may engage in an act derogatory to the honour or dignity of his profession or to the discipline of the members of the order, or practise a profession, carry on a trade, enterprise or business or hold an office or function that is inconsistent with the honour, dignity or practice of his profession."