

By M^e Josie Goffredo

Dishonest or doubtful practices: examples not to follow!

Over the past few months, headlines have reminded us that integrity is an engineer's crucial duty and one that he or she cannot circumvent. The same can be said for all professionals. The offences prescribed by sections 3.02.08 and 3.02.09 of the Code of ethics of engineers are among the most serious violations relating to this duty¹. Nevertheless, recognizing notions of integrity in our daily practice isn't always easy. Here are a few examples, taken from decisions rendered by the Ordre des ingénieurs du Québec's Disciplinary Council, which can help you better understand your ethical obligations pursuant to these provisions. In light of current events, we chose cases relating to the public works sector.

Code of ethics of engineers

Article 3.02.08.

The engineer shall not resort nor lend himself to nor tolerate dishonest or doubtful practices in the performance of his professional activities.

Article 3.02.09.

An engineer shall not pay or undertake to pay, directly or indirectly, any benefit, rebate or commission in order to obtain a contract or upon the carrying out of engineering work.

DISHONEST OR DOUBTFUL PRACTICES

The following cases provide examples of dishonest and doubtful practices under section 3.02.08 (without limiting the generality of this provision).

Making false representations

Is your client "shopping around" for the city's approval?

A municipality refused to approve plans presented by a real estate promoter that had been authenticated by an engineer. At the promoter's request, a second series of plans, identical to the first, were prepared and were signed and sealed by another engineer, simply to accommodate the promoter. These plans were submitted to the municipal authorities for a second time in hopes that they would be approved; again, the city refused to issue the requested permit². This engineer then had to correct the plans and submit them once more. The Disciplinary Council found the second engineer guilty of having resorted to or tolerated dishonest or doubtful practices in view of obtaining a municipal permit.

Do you leave false impressions when it comes to your services?

An engineer responded to a school board's invitation to tender under the name "Group x, Eng.". He was found guilty of having given the school board the wrong impression, namely that he provided professional services within a group of engineers that had experience in many areas of engineering³.

Have you ever tried to have certain services financed through a government program, all the while knowing that such services were not covered by the program?

In her proposal, an engineer suggested that a municipality have services financed under a clean water program, even though such services were inconsistent with the program⁴.

Would you provide a fictitious address in order to get a contract?

As part of a highway planning project, the Transport Minister required that engineers responsible for the project have offices within the region where the work was being carried out. In their proposal, two engineers provided inaccurate information relating to one of the entities in their group. In effect, the engineers were not employed by the entity, which did not have an address in the region in question⁵. What's more, one of the respondent engineers had undertaken to obtain a fictitious address for the engineer in charge of the project, who was not eligible for the contract as he resided outside the region⁶.

Carry out work without having the required permits

Have you ever carried out work without the proper approval?

In connection with aqueduct and sewer works related to residential development projects, a junior engineer allowed and/or tolerated that work be carried out without having obtained the proper authorisations from the Environment Minister⁷.

Did you really ensure that you had the required permits?

An engineer tolerated a doubtful practice when he allowed the execution of pile driving work without having previously received the municipal permit required by the regulation.

1. M^e François Vandebroek, Eng., *L'ingénieur et son code de déontologie*, Trois-Rivières, Les éditions Juriméga, 1993, p. 73.
2. Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. Lionel M. Talbot, Eng., C.D.O.I.Q., file no 22-00-0009.
3. Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. René Guilmane, Eng., C.D.O.I.Q., file no 22-02-0261.
4. Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. France Michaud, Eng., C.D.O.I.Q., file no 22-95-0009.
5. Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. Trudeau, Eng., C.D.O.I.Q., file no 22-99-0005; Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. Tremblay, Eng., C.D.O.I.Q., file no 22-99-0006.
6. Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. Tremblay, Eng., C.D.O.I.Q., file no 22-99-0007.
7. Louis Tremblay, Eng., in his quality of assistant syndic for the OIQ v. Lefebvre, Eng., C.D.O.I.Q., file no 22-03-0282.
8. Rémi Laurent, Eng., in his quality of assistant syndic for the OIQ v. Raoul Altable, Eng., C.D.O.I.Q., file no 22-05-0313.

Instead of ensuring that the permits were obtained, the engineer assumed that the general contractor had taken care of getting them⁸.

PAYMENT OF ANY BENEFIT, REBATE OR COMMISSION IN ORDER TO OBTAIN A CONTRACT

Here are a few practices relating to obtaining or being awarded contracts for professional services which have been subject to complaints for having violated section 3.02.09.

Could your gift be construed as a brown envelope or a bribe?

As a gift, an engineer made payments to a travel agency to pay for part of a city's technical services manager's holiday. The "gifts" were offered during the days preceding or following the city's adoption of resolutions relating to mandates assigned to the engineer's office⁹. Another engineer, working for a government office, demanded to be paid to perform acts carried out during the course of his employment and for which he received a salary¹⁰. In the August/September issue of PLAN, the article entitled "The little brown envelope? Never!" reminded engineers of their ethical duty to act with integrity and safeguard their professional independence by being wary of bribes or "little brown envelopes".

Do you offer free professional services?

An engineer was found guilty of having suggested to a municipality that she could forego her fees for professional services already rendered in exchange for another contract¹¹. The Code of ethics of engineers does not prevent engineers from working pro bono in any and all cases. However, it does forbid them to offer free professional services in order to obtain contracts for professional services.

You wish to pay for the municipality?

What is not subsidized must be paid for by the municipality. The Order's Disciplinary Council has already found one engineer guilty of having agreed to pay the unsubsidized portion of work commissioned by a municipality¹².

In reference to section 3.02.09 of Code of ethics, the Order's Disciplinary Council explains that:

"One of the objectives of this section is to prevent engineers from making propositions bearing advantages that would put them in a better position than their competitors."

9. Committee – Engineers – 6 (1977) D.D.C.P. 253.

10. Disciplinary Committee of the Ordre des ingénieurs du Québec, file n° 22-85-0006.

11. Rémi Alarent, Eng., in his quality of assistant syndic for the OIQ v. France Michaud, Eng., C.D.O.I.Q., file no 22-95-0005.

12. Rémi Alarent, Eng., in his quality of assistant syndic for the OIQ v. Pierre Shoiry, Eng., C.D.O.I.Q., file no 22-92-0001 ; Rémi Alarent, Eng., in his quality of assistant syndic for the OIQ v. Éric Tremblay, Eng., C.D.O.I.Q., file n° 22-92-0002.