NOTE: The NSPE Board of Ethical Review considers ethical cases involving either real or hypothetical matters submitted to it from NSPE members, other engineers, public officials, and members of the public. The BER reviews each case in the context of the NSPE Code and earlier BER opinions. The facts contained in each case do not necessarily represent all of the pertinent facts submitted to or reviewed by the BER.

Each opinion is intended as guidance to individual practicing engineers, students, and the public. In regard to the question of application of the NSPE Code to engineering organizations (e.g., corporations, partnerships, sole proprietorships, government agencies, and university engineering departments), the specific business form or type should not negate nor detract from the conformance of individuals to the NSPE Code. The NSPE Code deals with professional services, which must be performed by real persons. Real persons in turn establish and implement policies within business structures.

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COPYRIGHT – DUTY TO REPORT VIOLATION OF COPYRIGHT LICENSING AGREEMENT (Review and Reconsideration of BER Case No. 97-12)

Case No. 99-13

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

**Question:**
Was it ethical for Engineer A to report his employer’s apparent violation of the licensing agreement on the "hotline" without first discussing his concerns with his employer?
MISREPRESENTATION/ MISAPPROPRIATION OF ANOTHER ENGINEER’S WORK National Society of Professional Engineers Board of Ethical Review Case No. 00-1

Facts:
Engineer A, a CEO of a small engineering corporation, teams up with another small firm in the development and delivery of highway/rail intersection database management systems for various public and private enterprises. Engineer A is the co-author and the program is patented/copyrighted.
Engineer B in a private firm from State X calls Engineer A and informs Engineer A that State X’s Department of Transportation (XDOT) is interested in the highway/rail system and has asked Engineer B to evaluate the system. Engineer B requests and Engineer A agrees to visit with Engineer B in State X.

Prior to the visit, Engineer B requests that Engineer A prepare a project proposal which Engineer A submits. Later, at Engineer B’s request, Engineer A visits Engineer B’s offices and demonstrates the systems. Project managers, as well as programmers, from Engineer B’s firm are present at the meeting. Engineer A describes in great detail the technical aspects of the system.
Following the meeting, Engineer B requests that Engineer A prepare a new proposal with a detailed breakdown of all costs.

Following the passage of time, Engineer A receives a phone call from a subordinate of Engineer B advising that Engineer B will not need Engineer A’s firm’s services because Engineer B’s firm now has the capability to design their own system.

**Question:** Was it ethical for Engineer B to obtain Engineer A’s technology in the manner herein described?
CONFIDENTIALITY – RECORDS RELATING TO SERVICES TO FORMER CLIENT Case No. 01-6

Facts:
Several years ago Engineer A, a mechanical engineer, consulted for Company A, a pressure vessel manufacturer, on a specific pressure vessel problem relating to the design of a boiler system. Engineer A’s work focused on specific design and manufacturing defects that caused deterioration of the boiler system. Engineer A completed his work and was paid for his services.
Ten years later, Engineer A was retained by, Attorney X, plaintiff in a case involving the fatal explosion of a recently designed and manufactured pressure vessel at a facility previously owned by Engineer A’s former client, Company A. The facility was sold to Company B seven years before the explosion.

The litigation does not involve any of the issues related to the services Engineer A provided to Company A ten years earlier.
The defendant’s attorney discovered through Engineer A’s deposition and statements relating to his professional experience that Engineer A had worked for Company A on a pressure vessel problem. Engineer A explains to the defendant’s attorney that he is not relying upon any of his prior work for Company A in this case.

Nevertheless, the defendant’s attorney requests that Engineer A provide his files from the previous work performed for Company A.

**Question:**
Would it be ethical for Engineer A to voluntarily release the files to defense counsel?
CONFRONTING FORMER EMPLOYEE FOR IMPROPER CONDUCT
National Society of Professional Engineers
Board of Ethical Review Case No. 00-4

Facts:

Engineer A is a small business owner. Engineer B, a licensed engineer formerly employed by Engineer A’s firm, makes calls to Engineer A’s employees (at home and at work) requesting that they make him copies of their company's proprietary schematics. Engineer B’s request specifically instructs these individuals to not mention these conversations to Engineer A. Engineer A’s employees alert Engineer A to the problem.
However, Engineer A is concerned about Engineer B’s activities and the potential threat these requests could have on the health of Engineer A’s company (if their proprietary information were to fall into competitor’s hands).

Engineer A confronts Engineer B at a seminar and, in front of many other engineers, architects, contractors, clients, and others, and makes several accusations and angry comments to Engineer B. Engineer B denies the accusations, and both Engineer A and B exchange a series of derogatory comments. Following this exchange, Engineer A and Engineer B both leave the seminar.
Questions:

Was it ethical for Engineer B to contact Engineer A’s employees?

Was it ethical for Engineer A to confront Engineer B in the manner described?
Employment—Cash Door Prize (Case No. 10-3)

Facts:
Engineer A works for UVW Engineering. As part of Engineer A’s activities and employment responsibilities on behalf of UVW Engineering, he attends various conferences and trade shows. While attending a recent conference and trade show at UVW Engineering’s expense, Engineer A won a door prize worth $5,000.

Question:
- Would it be ethical for Engineer A to keep the door prize or is he required to remit the prize to UVW Engineering?
Discovering Embedded Comments in Electronic Documents Damaging to Adversary

Case No. 09-11

Facts:
Engineer A is a forensic engineer and is hired by Plaintiff Attorney Y in a product liability case to review technical attachments that are part of settlement documents. The documents are relayed by Defense Attorney X to Plaintiff Attorney Y who then e-mails them to Engineer A. Engineer A’s computer has commonly available commercial software that reveals embedded notes in the original document, which includes comments that are damaging to the interests of Defense Attorney X’s interests. Engineer A reads the comments and realizes the implications of the comments.

Question:
What are Engineer A’s ethical obligations under the circumstances?
Copyright—Using Unlicensed Proprietary Software to Create a New Software Product (Case No. 08-11)

Facts:

- Engineer A is a software systems engineer hired by NewSoft, a start-up company, to help in the development of a new software product. Engineer A soon learns that the plans for the proposed new product will be based upon proprietary software for which NewSoft does not have a license. Engineer A assumes that this is some sort of mistake and speaks to the company president about the matter. Engineer A is assured by the company president that the situation will be rectified. But several months pass, and no licenses have been secured for the proprietary software. Repeated efforts by Engineer A to get the NewSoft leadership to address this issue have failed. Engineer A is uncertain as to what steps she should take next.

Question:

- What are Engineer A’s ethical obligations under the circumstances?
Employment – Employee/Employer Files
Case No. 06-9

Facts:
Engineer A, employed by ENJ Engineering, recently accepted a position as an engineer with RFP Engineers, a competitor of ENJ Engineering. Engineer A has files in his office including the following:

1. Client files, which include correspondence between Engineer A and various clients while employed by ENJ Engineering and project specific technical information;

2. Technical information files, such as articles, publications, and external reports, that Engineer A has personally received and saved during the course of his employment with ENJ Engineering to assist him in providing technical and professional services for clients;

3. Personal files, which include personal correspondence received from past and present clients acknowledging and expressing appreciation for Engineer A’s work on various engineering projects and technical information obtained outside of his employment by ENJ Engineering.
Questions:

1. Would it be ethical for Engineer A to take the client files with him when he terminates his employment with ENJ Engineering?

2. Would it be ethical for Engineer A to take the technical information files with him when he terminates his employment with ENJ Engineering?

3. Would it be ethical for Engineer A to take the personal files with him when he terminates his employment with ENJ Engineering?