

Michael Rabins' Commentary on "Leaking Waste Containers"

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"Honesty is the best policy" is such a well-known and overused cliché (like "To thine own self be true", or "Truth will always out") that we seldom take the time to consider the consequences of not being truthful or even why these clichés have come into existence. One author has said that he is not smart enough to lie because he can not remember what different lies he told to different people and then keep all the balls juggling in the air correctly. The 3rd and 4th Fundamental canons of the NSPE code of Ethics ("Issue public statements only in an objective and truthful manner" and act in professional matters for each employer or client as faithful agents or trustees") are there to provide us guidance and support as engineers to say and do the right (honest) things when faced with situations like Scott Lewis had to deal with at ABC.

Scott is a trustee of ABC's reputation, good will and long-standing position in the marketplace. If he won't stand up to do the right thing for his company (and synonymously, the public) who will? If he allows Tom Treehorn to break the law for just some short-term financial gains, is he really doing ABC a favor? If he does tell a 'white lie' and look the other way when Tom breaks the law to cart away the toxic waste, as in phase II of the case, the consequences of this action can have disastrous long-term effects as clearly shown in phase III. Now he must testify in court that he knowingly abetted Tom in breaking the law and that by not reporting Tom he committed the lie of omitting to report. At best he stands self-convicted of an error of judgement back in phase I now that he is on the witness stand in phase III. Worse still, by current federal law ("Resource Conservation and Recovery Act" - RCRA) he stands liable to be criminally indicted. Others in similar situations in real life now have a record of a convicted felony after a jury trial based on this law.

Putting aside the effects Scott Lewis personally suffered by not reporting Tom, one still needs to consider the effect his actions had on his company. True, he and Tom

may have saved some money, time and trouble for ABC in the short term, but what will the long term effect on ABC's reputation be after a messy, front-page trial for toxic dumping? What effect will that have on ABC sales, stock-dividends, employment outlook and community tax-base contributions? What about the long-term effects on the professional pride and self-esteem of all the employees at ABC who, like Scott and Tom, are under obligation to "Hold paramount the safety, health and welfare of the public in the performance of their professional duties"? (The first Fundamental Canon of the NSPE Code of Ethics.)

This case is reminiscent of several other real life situations that the interested reader may wish to pursue. There is a wealth of writings on "Love Canal" and the Hooker Chemical Company that raise related issues. The recent case of the "Aberdeen 3" is very similar in some of the circumstances of this case. The hypothetical situation in the T.V. tape "Gilbane Gold" put out by the NSPE has some similar overtones of toxic waste issues. Also, the NOVA series has a number of T.V. tapes available in most college library audio-visual centers on such issues as PCB dumping and asbestos related issues that also relate to this case. The NOVA series and the NSPE tape are professionally done presentations that are effective for classroom use.

One last comment needs to be made regarding this Waste Disposal case, particularly with regard to phase I. The way the questions are posed in the phase I presentation of the case naturally brings up a number of important related considerations such as loyalty, differing professional opinions and whistle blowing. Regarding the latter, there is an excellent paper by Michael Davis, "Avoiding the Tragedy of Whistle Blowing" Davis, Michael. "Avoiding the Tragedy of Whistleblowing", Business and Professional Ethics Journal, vol. 8, no. 4, summer 1988, pp. 3-19., which makes a compelling case that once you get to a whistle blowing stage of a case, the situation is lost. Davis gives many pragmatic reasons why this is the case and offers many practical suggestions on how to avoid the tragic whistle blowing pathway. In this case, Scott would have done well to have read Davis' paper and followed some of his advice about networking with many people at ABC, and communicating with them in tactful and deft ways before the situation ever escalated to phase III.

In regard to as loyalty to his company and his fellow workers, Marcia Baron has some very relevant advice to offer Scott in her monograph "The Moral Status of Loyalty". Baron, Marcia. "The Moral Status of Loyalty", Module Series in Applied

Ethics from the Center for Studies of Ethics in the Professions, Illinois Institute of Technology, 1984. The very definition of loyalty has so many dimensions and interpretations that one must be extremely careful before jumping to any conclusions about what you owe your company or your professional colleagues in situations like Scott faced in phase I.

Finally, why should we even pay attention to what our Professional Society codes of ethics tell us to do in general terms? The NSPE Fundamental Canons, as well as other codes, offer us support to do the right thing as professionals regardless of what other pressures (time, money, bureaucratic, political, etc.) come to bear. In "Thinking Like an Engineer: The Place of a code of Ethics in the Practice of a Profession", Michael Davis Davis, Michael. "Thinking Like an Engineer: The Place of a code of Ethics in the Practice of a Profession", *Philosophy and Public Affairs*, vol. 20, no. 2, spring 1991, pp. 150-167. points out that by relying on the codes we take the kinds of decisions that Scott has to make in phase I out of the realm of subjective personal decisions, and put them at a higher level of professional expectations that we all need to recognize.