

## **Water, Water Everywhere...** **(Case 1014)**

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### **The Case:**

Roger Champion is a young engineer who received his Master of Science in Engineering degree two years ago and is now working for a consulting engineering firm that proudly states that it has clients in both the public and private sectors. The firm believes that they are capable of providing excellent service to both sectors and that this market-diverse strategy enhances their services and engineering designs, as well as providing more protection for the firm against unforeseen changes in the economy. As a result, the firm has two operating vice presidents; one for private sector clients and one for public works clients.

Roger has been assigned to perform hydrologic and hydraulic computations and analyses for a sizable project as part of a contract the firm has with the Downing Flood Control District. This project is subdivided into several significant phases, and he is working on the first phase at the present time. Roger's responsibilities focus on the impacts of large scale upstream development and the potential resultant adverse effects on existing flood control problems downstream. More specifically, the information he is developing will eventually be used to evaluate a citizen-developed concept for a regional stormwater detention basin and an ancillary recreational park to provide mitigation for the anticipated increases in runoff from the upstream development, which are to be determined from the several phases of the study.

While he is working on this first phase of the project, Frank Bullock, the firm's vice president for private sector business development, is approached by a number of companies to determine the status of the study, what information has been developed and what the firm's recommendations are likely to be. Because of the number and frequency of these requests, and the obvious opportunity for establishing closer relations with previous and prospective private clients, Frank approaches Roger and requests a draft of the first phase report before it is finalized and submitted to the Downing Flood Control District.

As soon as the draft is prepared, Roger sends a copy to Frank for his review and comment. Receiving suggestions and comments from his boss and other reviewers in the firm a couple of weeks later, but not from Frank, Roger finalizes the report. Prior to actually having the report delivered to the client, Roger approaches his boss, Bill Mason, and expresses his uneasiness about having provided Frank Bullock with a draft of the report, since he is not sure what use

Frank will make of it. Roger also indicates to Bill that he recognizes that the information will be made public once it is reviewed by the flood control district, however he is a bit disturbed by the timing of these events.

Bill thanks Roger for his concern about the propriety of the situation, but assures Roger that it is nothing more than a matter of timing, since the information will be made public within a few weeks anyway. In fact, this is not an unusual situation, and it is done all the time, not only by this firm, but by others under similar circumstances. It is viewed as cooperating with the public.

What, if anything, should Roger do, now and in the future?

### **Alternate Approaches and Survey Results for “Water, Water Everywhere” (Case 1014)**

1. He should do nothing. Roger is young, inexperienced and unaccustomed to consulting engineering practice. He does not understand that this is the way business is done in these circumstances. It is an accepted practice and everyone understands it, as his boss, Bill Mason explained.  
Percentage of votes agreeing: 4%
2. He should play dumb and ask Frank Bullock for his comments on the report, since he wanted to review the draft copy. Ask him what use he is making of the draft report and if he has anything constructive to add to the report from an engineering standpoint. Perhaps Frank really did want to provide technical assistance.  
Percentage of votes agreeing: 11%
3. He should explain his concerns over an after-work beer with a couple of friends in other engineering firms in town to see if this really is a common and accepted practice. If it is not accepted practice, ask for their advice about what he should do in this circumstance, if anything.  
Percentage of votes agreeing: 4%
4. He should call his contact at the client's office (the Downing Flood Control District) and discuss the situation with them to see if they are concerned over the possibility of the information in the draft report being made available to a number of private companies before the final report is submitted and accepted by the District, and becomes public property.  
Percentage of votes agreeing: 15%
5. He should write a letter to the president of his firm, with copies to both Frank Bullock and Bill Mason, simply outlining the chain of events without accusations of any kind. Let the president deal with it (that's why he gets paid big bucks).  
Percentage of votes agreeing: 8%

6. He should call a meeting within the firm, including Frank Bullock, Bill Mason, the president of the firm and the firm's attorney, to discuss whether it is ethical or unethical for the company to be disseminating the contents of the draft report to others prior to submitting the final report to the Downing Flood Control District.  
Percentage of votes agreeing: 18%
7. He should make an anonymous telephone call to the local radio station and/or newspaper, saying that "rumor has it" that preliminary information about the impacts of the proposed large development on the magnitude and cost of anticipated downstream flood control facilities is being made available to some interested parties, including real estate agents and developers.  
Percentage of votes agreeing: 1%
8. He should call the National Society for Professional Engineers (NSPE), talk with their in-house legal advisor and determine if this is an acceptable practice or if any laws are being broken, but do not divulge the name of the firm.  
Percentage of votes agreeing: 26%
9. He should call the state's Attorney General office and set up an appointment with an attorney for the state to discuss the entire matter.  
Percentage of votes agreeing: 1%
10. If there is incontrovertible evidence that Frank Bullock has shared or is sharing the information in the preliminary draft with old or prospective clients who stand to gain financially from the disclosure, Roger should file a complaint with the Board of Registration for Engineers in his state, since this would likely be a violation of their code of ethics.  
Percentage of votes agreeing: 10%
11. He should resign and move to Paraguay, or somewhere else.  
Percentage of votes agreeing: 2%

#### **Forum Comments from Respondents**

1. Before Roger can act on anything, he needs to know if there is really a problem or not.
2. He should make sure the company knows what he is doing. Don't go behind their backs.
3. Since he has already spoken to his own boss, he should go to the firm's attorney quietly to describe his fears. With no evidence of any kind to back

up his fears, he should not speak out publicly and perhaps ruin someone's career on just suspicion. Let the firm's attorney take it from there.

4. It is interesting that the two highest scoring solutions (options 3 and 8) in this class of senior mechanical engineering students focus on finding out more about the appropriateness of the situation - - in one case from the experts and in the other from peers. It seems clear, therefore, that making available the resources to help young engineers resolve such questions will have an important role in raising the level of ethical performance.
5. Roger actually has no evidence of ethical misconduct by Frank Bullock. There are potential other uses of a draft report for understanding the district and refining marketing strategies without handing it out to developers.
6. The time to raise the issue was when Frank Bullock asked for a draft copy! Nominally one would expect there to be some [internal] rules on separation of public and private clients which would prevent the information transfer. If both clients were private, it would never happen; the fact that one is "public" is a red herring - it is still insider information until the "public" entity actually makes it public. The possibility of making money on prior knowledge of the report is definitely there.
7. Timing on release of recommendations from such a study is critical to all potential investors/developers who would likely benefit substantially from such information if they had it before competitors. Hence, Roger's concern is legitimate. There is the danger that Frank, and possibly Bill, will benefit personally (let alone the benefit to the company from grateful customers or potential customers) by having the pre-released information. This is unethical generally, and, in the case of government contracts, illegal.
8. Roger does not know to what use Frank put the report nor does he know for sure that a violation of any ethical practice has occurred. If Frank did give a "preview" copy to his business associates and it contained information that could be defined as "insider information", a violation of ethical principles has occurred. With public companies the SEC [Securities Exchange Commission] has rules directed to release of that information and, I believe, criminal prosecution can be invoked.
9. This [acknowledged practice of distributing draft report information to the public without permission of the public client] is not cooperating with the public. This is colluding with people who stand to gain financially by getting information before it is publicly available. At this point Roger's boss has revealed his lack of ethical character. The "it's done all the time" justification is a huge tip-off that what's being done is knowingly wrong.

10. In the future, Roger should understand the use that will be made of his draft work before giving copies to people in or out of his company not directly associated with the project.
11. Frank would probably say that his action wasn't ethical, it was just good business. There is a fine line between "good business" and unethical behavior. If Frank used the information to contact some of his clients before the information was made public, then that deed is the same as inside trading on the stock market. I think it is WRONG.
12. In the future, Roger should tell Frank that he cannot have a copy of the report until it becomes public because it is still his client's [the Flood Control District's] property until that time. The fact that the firm works for different clients should not mean that the rules change. If Roger had passed the draft on to a different consulting firm before it was public, that would be unethical because the information still belongs to the Flood Control District until it is made public.
13. Many [engineering] contracts have confidentiality clauses in them that strictly forbid discussion of the project findings and results with anyone outside of the firm [other than the client]. Even if there were no contract clause forbidding outside discussion, Roger's firm is forgetting who their client is. Roger must remind his peers and bosses that the Flood Control District may very well want some significant changes in the report, which he would have to make and could adversely impact the developers. It would put the firm in a real bind if the developers came back to the firm and pressured them on how they wrote the report.