SCENARIO #1

Industrial Hygiene Influencing Business and Vice Versa

Aaron Chen
Joint Industrial Hygiene Ethics Education Committee

Background Introduction

A small Midwestern local section is a group of twenty one industrial hygiene/occupational health and safety professionals who meet on a regular basis to network and provide professional development discussions and training. The group is comprised mostly of area consultants and a couple of specialty environmental labs and distributors of S&OH equipment. There are few large manufacturing companies in this region. Because the group is so small and comprised mostly of consultants, it is having difficulty covering the costs of quarterly dinner meetings and attending the national conference.

At the September local section business meeting there was a discussion about two potential offers that were made to the secretary of the local section. One offer, from a safety equipment distributor was to provide for all costs associated with the local section’s quarterly dinner meetings. This would include conference room fees/rentals, all costs associated with dinner, and drinks for a happy hour. This would be done as long as the local section agreed to exclusively allow the distributor to display the products it sells at local section meetings.

The second offer, from one of the environmental labs, was to subsidize the costs of attending the national conference for all members of the local section. Additionally, the lab would cover the cost of attending one PDC per local member. In return, the lab requested that each consulting professional agree to promote the lab whenever the consultant required lab work as a result of a workplace exposure assessment. The lab would also like the local section to provide a list of all clients, the type of work they do, and a current project list so the lab can better market these potential customers. In summary, the consulting professionals would recommend to their customers the lab as the preferred provider of laboratory services and share their customer information with the lab.

The secretary of the local section feels strongly that this may be a great way to help with their regular meeting costs and also to defray some of the costs associated with attending the national conference.

The local section president feels strongly that the group should accept both offers as most of the consultants are working with very slim profit margins. Furthermore, he feels this could improve his small firm’s ability to compete effectively in the local market.

The communications director of the local section feels that neither offer should be accepted as presented and that further discussions with the distributor and lab should be conducted.

What issues are presented here? If the safety distributor’s and lab’s offers are accepted as described, have any Ethics Canons been compromised? Can the local section find a way to work with these two offers?
What Potential Ethics Issues may have been compromised?

Cannon #3: Keep confidential personal and business information obtained during the exercise of industrial hygiene activities, except when required by law or overriding health and safety considerations.  
Interpretative Guideline: Industrial hygienists should release confidential personal or business information only with the information owner's express authorization, except when there is a duty to disclose information as required by law or regulation.

Cannon #4: Avoid circumstances where a compromise of professional judgment or conflict of interest may arise.  
Interpretative Guideline: Industrial Hygienists shall not solicit or accept financial or other valuable consideration from any party, directly or indirectly, which is intended to influence professional judgment.

Both offers could at best be taken to imply that there is a conflict of interest represented as the initial offers were proposed. The second offer also has the strong potential to transfer confidential or business information that could be used exclusively for the labs own gain.

Can the local section still work with these two companies and come to an agreement that does NOT violate or appear to violate our code of ethics?

Yes, there are a number of things that could be done to possibly modify these offers in a way that would maintain the integrity of the local section and its members.

Regarding the first offer from the safety supply distributor. If the local section were open to displays for all the distributors within the geographic territory of the local section then the local section could possibly charge a fee for allowing the distributors to display their products. This fee could then be used to offset some of the costs associated with the dinners. There should be no conflict here as long as the offer is extended to all of the distributors within the area.

The second offer may take some tough negotiating to assure that there are No conflicts of interest and that confidential information is not exchanged. The lab could offer scholarships or grants to members of the local section as an alternative. However, the local section would be best served if they compiled a list of AIHA accredited labs and agreed to only give those lists to their clients. It would be up to the client to pick the most competitive labs from the list. To exclusively promote one lab certainly is NOT acceptable here. The best way to accomplish the local section’s objectives of continuing evening meetings and promoting professional development through attendance at the national conference would be for the AIHA accredited labs to work together to offer scholarships/grants to local members. There could be no ties to the scholarships for any perceived show of favoritism.

Probably the best way to resolve this issue would be to have a primary list of AIHA- accredited labs and a secondary list comprising labs who have only partial accreditation or no accreditation. This would level the playing field and ensure that all the information is available to clients. Whether or not this change in the offer is accepted by the lab(s) to be contacted depends on the local section’s ability to sell the benefits of doing things in an ethical and fair way, and still provide some benefit to the labs and distributors. The local section may not recover all of their costs for their meetings or provide options for free Professional Development Courses at the national conference, but the ethical standing of the local section and its membership will be maintained and all parties involved will be better off in the long term for conducting business in an objective and fair manner.
SCENARIO #2

The Sanctity of Data-A Scenario
Jeff Throckmorton (Interpreted by Jeff Stumpf)
Joint Industrial Hygiene Ethics Education Committee

Pete Smith, a CIH with more than 20 years of practice, is employed by Colossal Consulting as a senior industrial hygienist. Colossal provides environmental and industrial hygiene support to a variety of clients, with a fairly large segment of its business devoted to lead and asbestos consulting.

Colossal has recently come upon difficult times, having abruptly lost several entry-level IHs to a rival firm, Titanic Consulting. After an extensive search, Colossal succeeded in hiring several associate-level IHs, all of whom have either BS or MS degrees and between one and four and one-half years' experience. Smith is responsible for mentoring them in the profession as well as the firm, all the while trying to make up lost ground for the projects, which fell critically behind schedule while the company was short of help. To meet client deadlines, Smith has been in the field performing hands-on air monitoring, something in which he is a bit rusty.

The firm is in the middle of the summer school abatement crunch and is providing oversight and transmission electron microscopy clearances in several school districts, as required by the Asbestos Hazard Emergency Response Act standard. Under time pressure, Smith hastily grabs his set of high-volume pumps and heads into the field with one of the new hires, Tom Green, to conduct a TEM clearance. Green, eager to learn, is arguably the sharpest of the new employees and is eager to pick up on this side of the business, intending to take his CIH exam in the fall. He is also a stickler for accuracy and precision.

On site, Smith checks the containment, finds it visually clean and deploys the pumps. He collects the 13 required samples and returns to the office. While showing Green how to fill out the lab submission form, he realizes to his horror that he had miscalculated in the field and had accidentally shut down several of the pumps too soon. AHERA requires a minimum sample volume of 1,200 liters, and two of his inside samples are low, having volumes of 1,150 and 1,190 liters, respectively. Sweat breaks out on his brow as he remembers that nine months ago a similar mistake was made that was caught by the state during an audit of school district files and resulted in a $5,000 fine to Colossal, with $3,000 of the fine deferred, pending the future record of the company over the next two years. Any detected infraction will result in new fines, plus the mandated imposition of the deferred $3,000. Green has been watching, and has also noted that the volumes are low.

Smith realizes that retaking the samples will be exceptionally difficult for a variety of reasons, among them the fact that the school district needs the area released as soon as possible, the general contractor is already paying a daily penalty for being behind schedule and the school district's project coordinator is not sympathetic, believing AHERA a monster out of control, and will not pay for resampling under these conditions, a fairly substantial expense.

Smith decides to change the volume to an acceptable level (1,200 liters for each sample) and does so by changing the sampling times. Green is, to say the least, mortified at the actions of the CIH. He considers data sacrosanct, especially on an official report which is to be signed by a CIH, and does not believe it proper to ever change it, especially for economic reasons. Smith justifies his actions by stating that the difference is less than 5 percent, within the sampling and analytical error; that people will be protected as the results will show if there is any asbestos; and that the pressured circumstances make it necessary to do. He suggests that if Green does not like it, there are other firms to work for, and that he will be on report.

Green does not feel right about this or about the firm. Smith is the senior IH, and those above him are managers and not IHs. Green believes that Smith is wrong and has violated the canon of ethics. He decides to go over Smith's head and write to the American Board of Industrial Hygiene, as well as contact the state, recognizing that he will need to be looking for another job at the same time.
The Questions

(1) Did Smith violate any canons of ethics? If so, which ones? Is there any merit to his SAE argument?

Answer:

Smith violated canons 1 and 6. His argument has little merit since the SAE is determined based on normal sampling and analytical conditions. He is introducing additional error by not satisfying the minimum volume to sample. Interpretations of the Industrial Hygiene Canons are as follows:

Canon 1 - Practice their profession following recognized scientific principles with the realization that the lives, health and well-being of people may depend upon their professional judgment and that they are obligated to protect the health and well-being of people. Specifically, industrial hygienists shall not distort, alter or hide facts in rendering professional opinions or recommendations.

Canon 6 - Act responsibly to uphold the integrity of the profession. Specifically, industrial hygienists shall avoid conduct or practice which is likely to discredit the profession or deceive the public. In this case, Smith is not only deceiving the school district but is also further jeopardizing the integrity of his employer.

(2) Did Smith violate the canons of ethics in his comments to Green?

Answer:

Smith violated canon 6. Smith, again, by his actions to falsify data and to justify his actions to Green, violated this canon.

(3) Would Green violate the canons of ethics if he follows through on his threat to contact the state?

Answer:

Since Green is not yet a Diplomate, the Code of Ethics does not yet bind his actions. However, Green's action to notify the state may uphold canons 1 and 6 but may potentially violate canon 3. Interpretations of the canons are as follows:

Canon 1 - Practice their profession following recognized scientific principles with the realization that the lives, health and well-being of people may depend upon their professional judgment and that they are obligated to protect the health and well-being of people. Green's action may attempt to avoid distorting, altering or hiding facts in rendering professional opinions or recommendations.

Canon 6 - Act responsibly to uphold the integrity of the profession. Green's action may attempt to avoid conduct or practice which is likely to discredit the profession or deceive the public.

Canon 3 - Keep confidential personal and business information during the exercise of industrial hygiene activities, except when required by law or overriding health and safety considerations. Green's actions may violate this canon by not first taking the issue of altering data to company management. Considering the company's history of past indiscretion and Smith's action that could further jeopardize the company's reputation, one would expect company management to act responsibly. Green's attempt to contact the state might be justified if company management decides to support Smith's action.
Ethical Dilemma: Should You Offer Opinions On Issues Outside of Your Expertise?
Zeke Haslam, Jr., CIH
Joint Industrial Hygiene Education Ethics Committee

Jason James is a well-respected expert in the area of indoor air quality (IAQ). He has published numerous peer-reviewed articles on the subject. James was one of the first safety and health professionals to obtain certification in the ABIH Indoor Environmental Quality Sub-Specialty. With these credentials, James is often consulted by building owners with IAQ problems.

Global Properties, Inc., the realty firm which manages the new Spectrum Center Executive Offices complex hires Jason James to investigate an IAQ related complaint at its office complex. The scope of the service contract is to investigate the IAQ complaint and present the findings in a written report to the facility manager. James' investigation is to include employee interviews, an inspection of the building's facilities (e.g., HVAC system, etc.) and general air monitoring.

While performing an inspection of the HVAC system, James notices what appears to be a violation of the fire codes. One of the conference rooms in the building is pretty large, appearing to accommodate 200 or more people. James has recently read in the local newspaper about an incident in which people were trampled during an emergency evacuation from a meeting room. After an investigation by OSHA, it was discovered that the room had an insufficient number of emergency exits. In James' opinion, there are not enough emergency exits leading from the Spectrum Center conference room based upon the room's capacity.

Although James was not hired to inspect the building for fire code violations, he feels it is necessary that he include his observation in the IAQ investigation report. He states he is not a safety expert and recommends a safety professional be consulted. He plans to verbally mention it to the facility manager but the manager has gone on vacation and is not due to return to work until the next week. James would be out of the country when the manager returned from vacation. James leaves the report with the facility manager's secretary, who places the report on the facility manager's desk so that he will see it on his return from vacation.

Later that evening while cleaning the facility manager's office, a housekeeper reads James' IAQ report. The housekeeper is delighted when he reads James' comment about the possibility of inadequate egress from the conference room. The housekeeper, who also read the article in the newspaper about people being injured trying to evacuate a conference room, has recently been reprimanded for not doing a good job of cleaning the facility manager's office. To get back at the manager for complaining about his work, the housekeeper notifies the local newspaper about James' report.

When the facility manager returns from vacation, he has to spend most of his time addressing questions from the media about claims of inadequate emergency exits in his building. Although it is later learned that the conference room in question does have the proper number of emergency exits, public and employee relations have already been damaged.

Question: Was it improper for Jason James to include his observation about the conference room in the IAQ report (even though he included a statement about his lack of experience in fire codes). Was this a violation of ethics code Canon # 5: "Perform services only in the areas of their competence"? How could James have handled this situation differently?
Relevant Ethics Code Canons and Interpretive Guidelines

Canon #2 -- Counsel affected parties factually regarding potential health risks and precautions necessary to avoid adverse health effects.
Interpretive Guideline: Industrial hygienists should obtain information regarding potential health risks from reliable sources.

Canon #3 -- Keep confidential personal and business information obtained during the exercise of industrial hygiene activities, except when required by law or overriding health and safety considerations.
Interpretative Guideline: Industrial hygienists should release confidential personal or business information only with the information owner's express authorization, except when there is a duty to disclose information as required by law or regulation.

Canon #5 -- Perform services only in the areas of their competence.
Interpretative Guideline: Industrial hygienists should undertake to perform services only when qualified by education, training, or experience in the specific technical fields involved unless sufficient assistance is provided by qualified associates, consultants, or employees.

The Joint Industrial Hygiene Ethics Education Committee's (JIHEEC) Opinion:

It is clearly inappropriate for Mr. James to include the fire code observation in the IAQ report because it is outside the scope of work. Any communication about the conference room should be delivered separately—preferably in an oral communication. In addition, it is better for Mr. James to recommend that the conference room be evaluated by a safety professional for emergency egress, instead of arriving at a conclusion about the number of emergency exits.

Although Mr. James' actions were inappropriate, the Committee does not feel that his actions constitute a violation of Canon # 5. Mr. James does not definitely state that the conference room has an insufficient number of emergency exits.

The Committee does conclude that there is a violation of Canon #2: Counsel affected parties factually regarding potential health risks and precautions necessary to avoid adverse health effects. Specifically, Mr. James' actions are not consistent with the first bullet under Canon #2, which states, "Industrial hygienists should obtain information regarding potential health risks from reliable sources." The assumption is made that Mr. James is not an expert in fire codes. It is inferred in the scenario and, therefore, assumed that Mr. James obtained the fire code information from the newspaper. The Committee does not consider the newspaper to be a reliable resource for technical information. The Committee feels that Mr. James should have researched fire code information through a reliable source such as qualified associates or consultants before mentioning the subject to the client.

There were also discussions about whether there is a violation of Canon #3: Keep confidential personal and business information obtained during the exercise of industrial hygiene activities, except when required by law or overriding health and safety considerations. Again, there is not sufficient information given to render a conclusion. It is not known whether Mr. James stamped the IAQ report as "CONFIDENTIAL", or perhaps sealed the report within an envelope marked "CONFIDENTIAL". Furthermore, doing so may not have altered the outcome of the scenario. Nevertheless, the Committee recommends that industrial hygiene professionals make an effort to keep confidential business information obtained during the practice of the profession.
SCENARIO #4

The ABIH PROFESSIONAL REFERENCE QUESTIONNAIRE
Zeke Haslam, Jr., CIH
Joint Industrial Hygiene Ethics Education Committee

Dillon Ricker is a recent graduate of the Lakeside University's Environmental Health Graduate Program. As promised, Dillon has just been hired by the consulting firm where he conducted his summer internship. Prior to entering graduate school, Dillon had worked for 2 years as an industrial hygienist at a small oil refinery in Louisiana.

Jim Westner, Ph.D., Dillon's supervisor and a retired environmental health professor, is very pleased with the new hire. He is particularly impressed with Dillon's remarkable understanding of industrial hygiene theories as well as his ability to use those theories in practical applications. Although Dillon has only a little more than a couple of years of industrial hygiene work experience, he repeatedly demonstrates the ability to define the problem, design a strategy for data collection, evaluate the data, and make the appropriate recommendations. In addition, Dillon's written communication skills are commensurate with those of a seasoned professional.

Dr. Westner's is currently the sole Certified Industrial Hygienist (CIH) at the consulting firm. He is scheduled to relocate across the country to open the firm's Pacific Northwest regional office within 2 years. However, this will leave the East Coast office without a CIH. Consequently, acquiring a CIH for the East Coast office is part of the firm's business strategy. Dillon is under a tremendous amount of pressure to get certified as soon as possible.

Dillon decides to immediately sit for the core examination, figuring that the Lakeside University's graduate program has adequately prepared him for becoming an Industrial Hygiene in Training (IHIT). One day while completing the exam application, Dillon approaches Dr. Westner about filling out a professional reference questionnaire, which is required by the American Board of Industrial Hygiene (ABIH) as part of the application process. Dillon explains to Dr. Westner that the reference questionnaire has to be mailed by the following day in order to meet the application deadline for those wishing to sit for the fall exam. Dr. Westner states that he is very busy preparing for a business trip to Seattle, but he will complete the questionnaire during lunchtime tomorrow.

At about 3:00 p.m. the following day, Dr. Westner bumps into Dillon in the hallway. Upon seeing Dillon, he confesses that he has been so busy preparing for the Seattle meeting that he completely forgot about the questionnaire. Dr. Westner goes on to say that he must immediately leave for the airport in order to make his 4:30pm flight.

Realizing the importance to the firm of Dillon obtaining his CIH within the next 2 years, Dr. Westner asks Dillon to accompany him back to his office. When they reach his office, Dr. Westner locates the questionnaire, signs it, applies his certification stamp, and asks Dillon to complete the questionnaire. Dr. Westner bids Dillon farewell and leaves for the airport. Dillon goes to his desk, completes the reference questionnaire in a manner that accurately reflects his current experience and ability, and drops it in the mail. Dillon's reference questionnaire makes it to the ABIH by the deadline for the fall examination.

Additional information: Dr. Jim Westner is a member in good standing with the American Conference of Governmental Industrial Hygienists. Dillon Ricker is not a member of any professional industrial hygiene organization.

Questions

Was there a violation of the Code of Professional Ethics for Industrial Hygiene? If there was a violation, which Canons were violated and which of the scenario characters violated the Code of Professional Ethics? How could this ethical dilemma have been avoided?
Relevant Ethics Code Canons and Interpretive Guidelines

Canon #4: Avoid circumstances where a compromise of professional judgement or conflict of interest may arise.
Interpretive Guideline: Industrial hygienists should not accept work that negatively impacts the ability to fulfill existing commitments.

Canon #5: Perform services only in the areas of their competence.
Interpretive Guideline: Industrial hygienists shall affix or authorize the use of their seal, stamp, or signature only when the document is prepared by the industrial hygienist or someone under their direction and control.

Canon #6: Act responsibly to uphold the integrity of the profession.
Interpretive Guideline: Industrial hygienists shall avoid conduct or practice, which is likely to discredit the profession or deceive the public.

The Joint Industrial Hygiene Ethics Education Committee's (JIHEEC) Opinion

The primary mission of industrial hygienists is to "protect the well being of workers and public". The American Board of Industrial Hygiene plays a vital role in helping the profession achieve its mission by establishing certain criteria to ensure that only individuals who are academically prepared, along with the appropriate work experience are allowed to sit for the certification examination. The ABIH has also established certain procedural safeguards to ensure an individual is who they profess to be and that they have the knowledge and experience claimed on the exam application. The efficacy of some of these safeguards relies on the honesty and integrity of the professionals for which the ABIH was formed to serve. When we knowingly circumvent these procedures, the safeguards fail, thereby posing a threat to our profession and mission.

The ABIH provides clear directives to exam applicants. Directions are also provided to the applicant's references on how to complete the professional reference questionnaire. The ABIH explicitly states in a letter accompanying the professional reference questionnaire that the "questionnaire is to be completed by the reference only." By disregarding this directive, the Committee feels that Dr. Westner actions poses a potential threat to the IH mission. In addition, Dr. Westner's act deceives the ABIH. Consequently, the Committee feels that Canon #6 is violated.

Dr. Westner compounds his wrongful act by affixing his CIH stamp to the questionnaire prior to its completion. By affixing his stamp to the document, Dr. Westner is attesting that he has reviewed the completed document and that it meets his satisfaction. Since this was not the sequence of events that leads to the completion of the reference questionnaire, the natural tendency is to cite Canon #5. However, Canon #5 deals with practicing in one's area of competence, rather than professional issues. Committee feels that Dr. Westner does not violate Canon #5.

Also, there seem to be a conflict of interest issue: Dr. Westner's professional responsibilities versus his need to have a CIH in the East Coast office. The Committee feels that Dr. Westner has made too many commitments, which negatively impacts his responsibility as a professional reference. Consequently, he violates Canon #4.

This scenario might have had a different outcome had Dillon planned ahead and given his supervisor more time to complete the questionnaire. Clearly, one day is insufficient. Or, Dillon could have filled in his demographic information on the questionnaire and given it to Dr. Westner with a stamped, addressed envelop to complete on the plane and mail at his destination. Ultimately, Dillon could wait for the next examination.

In conclusion, when we join or renew our memberships with either the American Industrial Hygiene Association, the American Conference of Governmental Industrial Hygiene, or the American Academy of Industrial Hygiene, we are agreeing to conform to its Code of Ethics. When our conduct is not consistent with the Code of Ethics, we are in violation. Since Dillon Ricker is not a member of either organization, his actions are not yet bound by the Code of Ethics. However, Dr. Westner likely violated Canons #4 and #6 and is bound to abide by the Code of Ethics given his status as a Diplomate.