

THE RESORT

I

The New Wyoming State Board of Professional Engineers performs regulatory functions (e.g., licensing of engineers) for the state. Members of the Board are appointed by the state governor. Most of the Board members are also members of the New Wyoming Society of Professional Engineers (NWSPE), a voluntary umbrella organization of professional engineers in New Wyoming. Membership in NWSPE is controlled by its own board and is not subject to approval by the State Board.

NWSPE holds annual meetings at pleasant resort area in New Wyoming. This year the NWSPE meeting will begin the day after one of the State Board meetings. Since they share many common concerns about the engineering profession, the Executive Committee of NWSPE has recently expressed a strong interest in improving communication between NWSPE and the State Board. Ordinarily the State Board meets in the State Capitol Building. Because the NWSPE annual meeting and the State Board meeting will occur so close together--and most of the Board members will be attending the NWSPE meeting anyway--the NWSPE Executive Committee extends an invitation to the State Board to hold its meeting at the resort area. The Board is invited to stay on for the NWSPE meeting, and an NWSPE session is planned for the Board to conduct a roundtable discussion of State Board activities and concerns. NWSPE offers to pay the travel and lodging expenses of State Board members.

Should the State Board accept the invitation?

1) Yes, the Board should accept the invitation. [Comment.]

2) No, the Board should not accept the invitation. [Comment.]

II

The State Board accepts the invitation, agreeing that this would be a good opportunity to improve communication with NWSPE. Several days later Brian Simpson begins to have second thoughts. A new appointee to the Board, and the only Board member who does not belong to NWSPE, Brian wonders if the Board has set itself up for a conflict of interest situation. Although he knows of no instances in which the Board has directly ruled on any NWSPE activities, it occurs to him that NWSPE and its members come within the purview of the Board's regulatory functions. Finally, Brian writes to Harold Brock, Chair of the State Board:

Dear Mr. Brock:

I have some serious reservations regarding our acceptance of the hospitality offered by NWSPE to hold our August meeting at the Lakeshore Resort. While I agree about the desirability for communication between the Board and NWSPE, it is inappropriate for us as a regulatory body to accept anything of substantial value from the organization representing those whose profession we regulate. Acceptance of hospitality in the form of lodging and meals creates the appearance of a conflict of interest. Therefore, it is my intention to pay any expenses not otherwise covered by the State of New Wyoming.

Sincerely,

Brian Simpson, P.E.

Before sending the letter, Brian shows it to you. He discusses his concerns with you and asks your advice about the letter.

You advise:

- 1) Send the letter as is.
- 2) Send the letter, but with the following revisions. [Explain.]
- 3) Don't send the letter. Just drop the matter. [Explain.]
- 4) Other.

III

Brian sends the letter as is. When Harold Brock receives the letter, he must decide what to do next. Should he:

- 1) Share the letter with other Board members, inviting each to decide for himself or herself whether to follow Brian's example.
- 2) Call a special Board meeting to discuss the matter.
- 3) Decide, on behalf of the Board, to withdraw acceptance of the hospitality.
- 4) Other.

IV

Harold sends the letter to the other Board members, inviting them to decide for themselves whether to follow Brian's example. One other member, Ellen Price, agrees with Brian and indicates that she, too, will pay her own expenses. None of the others, including Harold Brock, think the issue raised by Brian warrants refusal of the hospitality. Should Brian and Ellen do anything further, or should they simply quietly continue their rejection of the offer of hospitality?

- 1) They should simply quietly continue their rejection of the offer.
- 2) Other.

V

Brian and Ellen do not press the issue further but continue to insist that they will pay their own expenses. During the panel discussion at the NWSPE meeting an engineer in the audience asks: "It seems like everyone is talking about ethics these days. What kinds of ethical questions does your Board have to deal with?" Should either Brian or Ellen mention their concerns about a conflict of interest?

VI

Brian and Ellen do not press the issue further but continue to insist that they will pay their own expenses. While the annual NWSPE meeting is taking place, a resort area reporter learns (not through Brian or Ellen) that NWSPE is hosting the State Board. Like Brian and Ellen, the reporter thinks this might create a conflict of interest. She attempts to interview members of the Board about how they see the situation. She approaches Brian and Ellen. What should they say?

COMMENTARIES

Michael Davis

A conflict of interest exists when someone who is supposed to exercise judgment on behalf of another is in a situation where he has some special connection, commitment, or other interest making him less likely to judge correctly than he otherwise would. The appearance of a conflict exists where someone may, on the information available, reasonably conclude that a conflict of interest exists. An appearance of conflict is merely an appearance if the person supposedly having the conflict can, upon request, show that he lacks the special connection, commitment, or other interest or that, while he has the interest, there is in fact no reason why it should affect his judgment.

"Appearance of conflict of interest" should not be used as a polite way of talking about an actual conflict of interest. Problems of appearance can be handled by providing more information. Actual conflicts of interest can only be handled by giving up the interest causing the conflict, by withdrawing from the situation altogether, or by getting the informed consent of the person on whose behalf one is to exercise judgment.

The State Board's problem is not a mere appearance. It really could have a conflict of interest. Its members will have received benefits from the NWSPE that, in some future decision, may make them view that organization with a friendlier eye than the facts justify. Mileage, a few nights lodging, and a few good meals don't add up to much. The whole package may be worth no more than \$500 for each engineer over three days, less than most could earn in the same time. For those engineers already at the resort for the NWSPE conference, the package will be worth somewhat less, since travel would not be covered. Still, a gift generally carries more emotional weight than the cash that paid for it.

What should Brian Simpson do as a Board member who thinks the NWSPE's invitation would, if accepted, involve the Board in a conflict of interest? If New Wyoming is like many states, it has a State Board of Governmental Ethics to which such questions should be put (and a State Code of Ethics prohibiting certain conflicts of interest). Simpson should give the Board of Ethics a call and see what they advise. If they have been around for even a few years, they probably have had a question like that before, thought it through, and issued an advisory opinion. Such an opinion would certainly clarify the situation. It might even preempt the Board's decision.

But let's suppose New Wyoming has neither a code of ethics nor a board of ethics. What then? Simpson is on the State Board of Professional Engineers because he is a licensed engineer who the State, in its wisdom, thought would do a good job overseeing the practice of licensed engineering in the state. He is supposed to use his knowledge of engineering to distinguish between engineers who meet minimum standards and those who do not. He is on the board as an engineer, not as an ordinary citizen.

Simpson is not a member of the NWSPE. He is then not subject to the NSPE code. But, let us suppose that New Wyoming, like some states, includes a code of ethics more or less equivalent to the NSPE's in the statute

providing for licensing. Simpson could then conclude that NSPE Code II.4 might apply. Simpson should "act in professional matters for each employer or client as a faithful agent or trustee."

But does it apply? Is the State's relationship to Simpson that of employer or client of an engineer? Simpson is not a state employee. Most likely, he is a volunteer reimbursed only for expenses. Even if he receives something more than expenses, it will be as an official, not as an employee. Is the state then his client? What is a client? No engineering code defines that term. The dictionary is a bit more helpful. It offers several possibilities: a customer; the dependent of a patron; or one on whose behalf a lawyer, accountant, or the like acts. The state is certainly not Simpson's customer or dependent. That leaves one possibility: an engineer's client is someone on whose behalf the engineer acts. Since it seems reasonable to think Simpson is supposed to act on the state's behalf when serving on the Board, we may think of the state as his client. He should act as the State's "faithful agent and trustee". What does that mean here?

NSPE Code II.4.a requires engineers to "disclose all known or potential conflicts of interest to their...clients by promptly informing them of any business association, interest, or other circumstances which could influence or appear to influence their judgment or the quality of their services." If this were the only relevant provision of the code, Simpson's only responsibility would be to make sure the Board informed the Governor, the Secretary of State, or whichever official it reports to. Is there any other relevant provision?

While no other provision of the NSPE Code is both relevant and specifically concerned with conflict of interest, two at least seem relevant. Code III.2.a requires engineers to "strive to serve the public interest". This is not much help. The Board is conducting the joint meeting in order to benefit the public. Even Simpson has not suggested that the roundtable discussion of common concerns will not be useful.

Code III.3 is not much more helpful. It requires engineers to "avoid all conduct or practice which is likely to discredit the profession or deceive the public". But it gives no direction concerning whether the sort of conflict of interest in question here is likely to discredit the profession. There seems to be no reason to think it should deceive the public.

Why doesn't the Code simply outlaw all conflicts of interest? The answer is that some conflicts of interest are so trivial and the costs of avoidance so great, that a client may be better off with an agent who has that conflict of interest than she would be if she had to get a new agent or if this agent purged himself of the conflict. Is this such a case? Perhaps. After all, the chances of an actual conflict between the NWSPE and the State Board is small. The effect of the NWSPE picking up the Board's expenses is likely to be both small and short-lived. The advantage to the State of a joint meeting, on the other hand, might be substantial. Even Simpson seems willing to admit that. So, assuming disclosure to the state and its consent, why not?

We have now reached the question of appearance. Can the Board explain what it proposes to do in such a way as to dispel any appearance of impropriety? The Board almost certainly can explain it to the Governor, Secretary of State, or other official to whom it reports. But the State is a peculiar client. It will not be well served if the Board causes trouble between it and its "client", the public.

The Board should therefore do what it can to reduce the public appearance of conflict, for example, by getting the State to pick up as much as possible of the cost or, at least, by having the money for expenses channeled through a State account. As the Board considers how to avoid public misinterpretation of what it is planning, it may come to wonder whether Simpson might not have identified the best approach after all. The cost to them of avoiding the conflict is not all that much.

But suppose the Board decides to let the NWSPE pick up expenses. What should Simpson do if some member of the public asks about ethical issues the Board has faced? He certainly should mention this issue of conflict of interest (assuming he has no more interesting ethical issues to report and no rule bars him from discussing what goes on at Board meetings). He should try to be fair to both sides. Reasonable and decent people might differ on this issue. He should, however, not be afraid to talk publicly about the public's business. (NSPE Code II.1) Part of any dispelling any appearance of impropriety is publicly airing the issue before there is a scandal. The public is likely to be more trusting of people who seem enough aware of the potential for trouble to take sensible precautions. Scandal grows in darkness.

John B. Dilworth

Roughly, my general view is that it is very beneficial to us as a society, and hence ethically desirable or even obligatory, that we should ensure that social interests or roles (such as being a businessperson, friend, landowner, or a state representative) are maintained or made to be as compatible as possible with each other, so that 'friction' or 'conflict' between roles or interest-groups is minimized.

From this point of view, problems of 'conflict of interest' in which one person has several social roles involving different interests (e.g., as a friend versus as a business associate) turn out to be morally problematic not because of supposed 'conflicts' of those interests, but rather because of the high degree of moral temptation present in such situations. The proper social solution to such problems is appropriate regulations designed to legally enforce standard morality. On this view, there are no special moral circumstances associated with supposed 'conflicts of interest' which could excuse or exonerate those who act in a biased manner.

In the case of supposed conflicts of interest of social or political entities such as states or townships, I argue that such conflicts cannot occur at all. Hence of course there are no moral problems resulting from such 'conflicts'.

The present case suggests another, perhaps harder kind of challenge to my general view. It raises the question of apparent 'conflicts of interest' in which the supposed 'conflicts' could be between a person's 'self-interest' and some social interests.

For example, in the current case Brian Simpson expresses a concern that if members of the State Board accept hospitality from NWSPE (lodging, meals etc.) having some substantial value, their behavior would be "inappropriate". At least one of his specific concerns here seems to be that since individual members would get personal benefits from the hospitality, there would be at least the appearance that their actions as Board members might be compromised by this. Is there some conflict of personal versus social interests which could cause or explain why members could be morally compromised (or appear to be) in such a situation?

On my account of social interests, they are about the commitment, stake or value which some entity (a person, a political unit, etc.) attaches to or associates with some object or activity. This account would (so far) be generally accepted, and is broad enough to cover both legal and more general interests (in friendship, business associations, etc.).

However, note that nothing in this account rules out the possibility that the objects or activities of an interest are centered round one particular person. Then a 'self-interest' would simply be the special case when a person has the interest, and the same person is involved in the objects or activities associated with the interest. I propose that we accept this natural consequence of our initial definition, and hence regard it as a defining interests generally rather than specifically social (as opposed to individual) interests.

Admittedly, the term 'self-interest' is often used in ways which seem to make it a very different kind of thing from more impersonal or social interests. However, that can be explained. Such talk about a person's 'self-interest' is not about any particular self-directed interest the person may have, but rather about some kind of overall evaluation of the full range of a person's self-directed interests.

In this sense, a person's 'self-interest' is not one of their interests (since it is rather a sum or resultant of specific interests), and hence it cannot conflict with other interests or social responsibilities. So in our search for conflicts of interests between individual and social interests, we must be sure to use specific interests in each case.

Another common mistake about social versus self-directed interests is to assume that it is possible to exhaustively divide all interests into one category or the other. This encourages a view of 'conflicts of interest' in which the basic problem is seen as a conflict of selfish, personal interests on the one hand with social or moral interests on the other. However, it is easy to show that many interests involve both self-directed and other-directed elements, so that this account must be over-simplified.

For example, if person A has an interest in being friendly with someone B, this has an other-directed element (the other person B), but A's interest itself is richer than that. In order to adequately play the role of being a friend, person A must (of course) himself act in a friendly manner toward B, and so A's interest must be self-directed as well as other-directed.

The above example is a case where a social interest can be shown to have a self-directed element. Some personal interests can just as easily be shown to have an other-directed or social element. For example, suppose person A signs up for a course on public speaking because she has a selfish, personal interest in being able to speak well in public (she may believe that such a skill would improve her promotion prospects, for instance). Whether A likes it or not, she will succeed with her selfish interest only to the extent that she is able to actually speak well in public, i.e., perform that social role at least adequately (to the satisfaction of her audiences). Hence her interest is inherently other-directed (or social) as well as self-directed.

What these points suggest overall is that there is nothing special about apparent conflicts of selfish versus social interests; each kind of interest is structurally similar, and we cannot even assume that the selfish/social contrast is theoretically fundamental because there are 'mixed' cases with elements of both.

However, it might be thought that some fundamental selfish/social distinction could still be made. For example, the idea of the intended beneficiary of an interest might be introduced: A intends to benefit herself in the example above, and any benefits to her audiences are unintended by her. Since it is her interest, she gets to decide whether it is 'really' selfish or social by her intentions. (Note that, even with this addition, it is still possible to have 'mixed' cases, in which the owners of interests intend to benefit both themselves and other people involved in their interests.)

Certainly one's intentions, and one's own reasons for doing things, are important in the discussion of interests. However, they are more closely tied up with interests than the above account suggests. It is not as if, for any interest, one could have that interest plus any intentions whatever which one might choose to have. Instead, the having of an interest is itself a kind of commitment or way of thinking about or relating to things, which already reflects or contains the main outlines of one's intentions toward the objects of the interest.

For example, consider the case of person A above. If she really is taking public speaking courses just to enhance her promotion chances, perhaps we should say that strictly, she does not have an interest in public speaking, but

instead only an interest in getting promoted? This would make clear that public speaking is pursued by her only as a means to the end of getting promoted, and not for its own sake. This more insightful or explicit account of her interests (which takes account of her reasoning and intentions in explaining why she wants to learn public speaking) also leaves no room for additional intentions to distinguish selfish versus social 'versions' of her interest.

However, we should not over-emphasize the similarities and connections between intentions and interests. Interests are grounded in real connections in the world, while intentions are merely mental attitudes, which can be much more variable and quirky. For example, a speaker with an interest in public speaking may have intentions to speak in public as an integral part of that interest. But she may or may not intend to inform her audience of anything in the course of doing so. (That part purely depends on how she thinks of her interest.)

On the other hand, if she does indeed have an interest in public speaking, then she does have an interest in an activity which will inform her audience of something, as a result of her speaking. In other words, having or acquiring an interest involves taking on tasks or responsibilities which are integrally associated with the normal causal connections of real events and activities. In fact, it is this 'reality-oriented' aspect of interests which gives point to our whole discussion of conflicts of interest. We really would have moral problems if interests did conflict in a serious way.

Let us now follow our own advice above, and use as a possible example of conflict of individual versus social interests a case where each interest is clear and specific. My strategy will be to describe a scenario in which the interests definitely do seem to conflict, but then to show that a person could have the same interests without them conflicting with each other.

It will follow that such interests do not necessarily have to conflict, and so it must be other factors (such as the moral attitudes of the person having the interests) which determine whether there is a conflict or not. But then we are explaining why there is a conflict in terms of problems in a person's moral attitudes, which is just the opposite of the conventional view (according to which it is the inherent conflict of the interests themselves which explains why the person's behavior is morally problematic.)

For example, suppose that a State Board member X in the case really would enjoy hospitality at the resort (food, sightseeing, ..) to such an extent that he would do almost anything to get other invitations in future years from the NWSPE. Perhaps then if a case for review involving a NWSPE member Y came up, X would allow himself to be influenced by his desire for future hospitality, and rule in Y's favor whether Y deserves it or not. Is this not a case where X's individual interest in 'good living' is in conflict with his interest or role as an impartial State Board member?

My claim is that there are two possible answers to the question, depending on our interpretation of the interests in question. First, if we think of X's individual interest in its most specific form, as X's current interest in X himself receiving hospitality etc, then it may well be true that it conflicts with X's current role as a Board Member.

However, if we concentrate on the interests themselves, as possessed by anyone rather than on them as possessed by X (so that the individual interest is describable as of the type 'a person's individual interest in he himself receiving hospitality, etc. '), it seems clear that someone could easily possess both attitudes without any conflict. It is a normal fact of everyday life that some people are very fond of free hospitality, and that some are virtually morally incorruptible. There is no inherent connection whatsoever between great enjoyment of free food on the one hand and impartial decision-making on the other, and only morally corrupt or 'sleazy' people would allow themselves to adopt their interests in such a form that they could result in conflicts in this way.

Thus in such a case of conflict, it is the moral corruption or failure of a particular person at some stage in their life which explains why there is a conflict in interests. It is not some inherent conflict in the interests themselves which explains why there is something morally problematic about the situation of any persons who have the interests in question.

This analysis fits in closely with my general account of apparent conflicts of interest as morally problematic only because of the moral temptation involved. The case selected above is one in which the person has already given in to temptation. So even in this extreme case, when there is some actual conflict, it turns out that it is a mere symptom of an underlying moral problem about the person.

An analogy might be useful: just as interests don't have to clash, but may do so if adopted by bad people, so also spatio-temporal locations of cars don't have to clash, but may do so if driven by bad drivers (in an accident, the cars occupy the same spatio-temporal region for a while). We explain why the locations of two cars clash by appealing to facts about the drivers (bad driver, drunk,..); the crash itself is a mere symptom of the underlying driving problems of (at least one of) the drivers. The pattern of explanation is the same in each case.

In order to further demonstrate the validity of the above analysis of a conflict of interest, let us look at an even more extreme case. Suppose that it is not just hospitality, but some powerful, addictive drug which is being used to influence the decisions of State Board members. Suppose that it is so powerful that, once taken, anyone will develop an overpowering need for more of the same substance.

In such a case, the personal interest of each member in obtaining the drug might in every case conflict with their interest in rendering impartial judgements for the State Board. In other words, the interests would always conflict, and the need for the drug would override impartiality, whatever the individual moral scruples of the Board members happen to be. What should we say about such cases?

Note that here, if anywhere, the conventional view ought to work, according to which there are unavoidable conflicts of interest, which explain why people are morally compromised in such situations. However, the problem is that the only means of guaranteeing that the interests will always conflict in this way is to bring in an extreme form of causal determination. Far from being morally compromised in such a situation, Board members have instead become innocent victims of a dangerous drug which completely removes their power of choice. They are not responsible for failing to act impartially, and hence cannot be morally blamed for their actions in the situation at all.

There is another, deeper problem with this extreme example. I would argue that in order to acquire an interest as one's own, one must intentionally or deliberately choose or accept whatever is involved in the interest (only thus could it become or remain 'your' interest). But in the case of an addictive drug, there is no such preliminary (or ongoing) deliberative process. Hence strictly we should deny that anyone could have an interest in obtaining such a drug (they merely have an overwhelming need for it). If this is accepted, the extreme example falls apart, because we no longer have a conflict of interests at all.

In conclusion, let me return to a main part of my original claim (in my GOLFING commentary) that interests are normative in the sense that we ought to structure them in such a way as to avoid or minimize inherent conflicts between them. We have just seen an extreme example of such a conflict: if we allow (for the sake of argument) that drug addiction could generate an 'interest' in ingesting a drug, then clearly it is ethically imperative that we find effective ways of preventing this 'interest' from conflicting with all kinds of social interests and roles to which addicts may also be committed.

In such an extreme case, the only effective methods available may involve an outright suppression of the harmful interest (i.e., outlawing of the manufacture, sale or possession of the drug involved). Notice that here again, it is not the conflict of interests itself which generates the problems or explains anything; instead it is the specific problems within a specific interest (here, that the acceptance of the interest rapidly becomes involuntary and overwhelming) which explains why there would be a conflict, and why it may be necessary to use forceful means to suppress or prevent such conflicts.

Neil R. Luebke

As the case itself suggests, the primary issue is a conflict of interest. Although the term "conflict of interest" occurs frequently in media accounts of public dealings, its usage in this context is somewhat technical and calls for a brief explanation. The only type of individual who can be involved in a conflict of interest situation, properly understood, is a person having a fiduciary duty, that is, the person has an obligation to carry out a matter that has been entrusted to him/her by another individual or group. The entrusting individual might be a client or a corporate superior. An entrusting group might be a state government or a board of directors. An engineer might have a fiduciary duty acting on behalf of a client or as a member of a state registration board. Most professionals--lawyers, architects, engineers--are hired for their trained judgment and their skill in carrying out such judgments. Trust is the basis of the relationship between the professional and the client or the authorizing party who empowers the professional to act on its behalf. Should anything imperil this trust, the fiduciary relationship is in danger. In the case before us, the New Wyoming State Board of Professional Engineers is a licensing board. It is entrusted by the state and its governor to perform its public duties in a responsible, objective manner and not to be swayed by special personal considerations or possible private favors.

The trust that is placed in the Board's members can be threatened in a number of ways. For example, some engineers in that state may attempt to bribe members of the Board to secure licensing; there may be close business relationships between members of the Board and some major employers in the state who are concerned with having their engineers licensed; or one or more members of the Board may be related to a candidate for licensure. Each of these situations could be looked upon as a conflict of interest situation, that is, a situation in which the fiduciary duty of the Board member is potentially or actually threatened to be compromised by a personal relationship or by a business or other financial relationship. To take other examples, an engineer who also owns a major share of an electronics firm might have a conflict of interest in making recommendations to a client regarding the purchase of electronic equipment. A lawyer whose firm is on retainer to provide legal services to a major business could not without conflict of interest represent a client who was suing that business.

There are different ways to handle a conflict of interest. One way, of course, is for the person who is involved in the conflict to remove himself from the situation. In the case of a person serving on a public board or agency, it is common practice for the person to refrain from voting on matters which might involve a conflict. Thus, for example, if a contract for a public project is to be let and one of the board members happens to be a part owner of one of the firms bidding on the contract, he should definitely abstain from the vote and probably from the discussion preceding the vote.

If possible, professionals should avoid getting into a conflict of interest situation. They should also avoid giving the appearance of conflict of interest. Surprisingly, giving the appearance of a conflict of interest may be just as damaging as having an actual conflict of interest. The trust placed in Board members can be endangered, and consequently the judgments of the Board placed in doubt, as easily by a strong appearance of conflict of interest as by an actual one. As described, our case suggests at least an appearance of conflict of interest. An

enterprising reporter could easily make it look as if the state society of professional engineers was attempting to wine, dine, and influence the members of the State Board. In short, the arrangement looks over cozy.

On the other hand, the state society of engineers certainly has a professional interest in hearing the viewpoints, problems, and plans of the State Board. Similarly, the State Board should see that one of its legitimate duties is to communicate with the professionals it regulates. The society is justified in issuing an invitation to the Board, or a set of Board representatives, to participate in a discussion session at the annual meeting. The society might offer to pay the expenses of any Board members attending, although this offer raises a separate question. The Board might choose to accept the program invitation but decide to fund the travel and expenses either out of personal funds, the Board's travel budget, or a combination. However, since all Board members except Brian are society members, the use of state funds to attend one's own professional society meeting might be suspect. Ironically for this case, Brian seems to have the strongest justification for State Board support. Token or partial support for other Board members would probably not be seen as objectionable.

It would be unwise for the State Board to meet at the resort immediately preceding the state society's meeting because the arrangement would also give a strong appearance of conflict of interest. The ordinary meeting site in the state capitol building is far more neutral territory.

The decision facing Board Chairman Harold Brock seems initially to have less to do with ethics than it does with purely administrative judgment. From the facts of the case as presented, there is no evidence that the question of conflict of interest came up in the Board's discussion prior to its acceptance of the invitation of the state society. Second, it was an invitation issued to the Board, not to individual members of the Board, and it was the Board that accepted the invitation. Even if Chairman Brock himself does not think a conflict of interest or its appearance is likely, he should allow the other Board members to be aware of the situation and to respond with their judgment. They might advise an additional Board meeting. We do not know whether there are additional meetings scheduled between the time they accepted the invitation and the time of the meeting with the state society. Possibly a conference call could be held with members of the Board to discuss the matter. The Board might then decide to withdraw the acceptance of the invitation, it might decide to send some representatives at its own expense, or it might decide on some other course of action. Allowing individual members of the Board to follow their own judgment in this matter would not seem to address the problem of conflict of interest. In fact, it might even draw attention to it. If the judgment of the Board is to hold its own meeting at the resort, the expenses should be paid through the Board's operating budget, and Brian and Ellen should have no reluctance in accepting reimbursement for their expenses. The Board, however, should consider whether meeting at a resort would be seen by the public as legitimate expenditure. Thus, the best course would seem to be (1) a Board meeting as usual at the state capitol, (2) acceptance by the Board to participate in the society program, and (3) refusal of Board members who are also society members to receive anything more than token reimbursement, such as travel cost, for their society meeting expenses.

Another aspect of this case ought to be mentioned. Virtually all states have laws governing conflict of interest on the part of public office holders. These laws will differ a great deal from state to state. Some members of the Board may not be familiar with the extent of the laws, and it should be one of Chairman Brock's actions to seek legal advice from the appropriate state office, rather than rendering his own judgment on the legal soundness of Brian's concern over conflict of interest.