IAN McAUSLIN, et al v. GRINNELL CORPORATION, et al:
EXPERT ETHICS

By Richard Schulte

> "*The purpose of the Society is to advance the science and practice of fire protection engineering and its allied fields, to maintain high ethical standards among its members, and foster fire protection engineering education.*"
>
> Society of Fire Protection Engineers

In order to accomplish one of its stated goals, maintaining *"high ethical standards among its members*", the Society of Fire Protection Engineers (SFPE) has adopted a "Canon of Ethics for Fire Protection Engineers". The Preamble to the Canon of Ethics includes the following statements:

> "*. . .Accordingly, the services provided by fire protection engineers require honesty, impartiality, fairness and equity, and must be dedicated to the protection and enhancement of the public safety, health and welfare; and the environment. In the practice of their profession, fire protection engineers must maintain and constantly improve their competence and perform under a standard of professional behavior which requires adherence to the highest principles of ethical conduct with balanced regard for the interests of the public, clients, employers, colleagues, and the profession. Fire protection engineers are expected to act in accordance with this Code and all applicable laws and actively encourage others to do so.*"

> "*. . .adherence to the highest principles of ethical conduct. . .*"

The following are excerpts from the Canon of Ethics:

> "*Fire protection engineers shall consider the consequences of their work and societal issues pertinent to it and shall seek to extend public understanding of those relationships.*" (Canon 2)

> "*Fire protection engineers are expected to act in accordance with this Code and all applicable laws and actively encourage others to do so.*"

"*Fire protection engineers shall perform professional services only in the areas of their competence and after full disclosure of their pertinent qualifications.*" (Canon 5)

"*Fire protection engineers shall be honest in presenting their professional qualifications, data and estimates, professional opinions and conclusions, and in their public statements dealing with professional matters.*" (Canon 6)

"*Fire protection engineers shall perform professional services only in the areas of their competence and after full disclosure of their pertinent qualifications.*" Canon 5

"*Fire protection engineers having knowledge of any alleged violation of these Canons shall cooperate with the proper authorities in furnishing such information or assistance as may be required.*" (Canon 12)

In the litigation which followed the destruction of the McFrugal's Warehouse building in New Orleans on March 21, 1996, Ian McAuslin, et al v. Grinnell Corporation, et al, Dr. Craig Beyler acted as an expert for the plaintiffs. In his expert report and testimony, Dr. Beyler made the following assertions regarding a fire which occurred in multi-row rack storage 21 feet in height:

"*Fire protection engineers shall be honest in presenting their professional qualifications, data and estimates, professional opinions and conclusions . . .*" Canon 6

- The LES3D fire model was capable of making reliable and accurate predictions of the activation times of multiple sprinklers and the number of sprinklers which would activate.
- Models developed by Dr. Beyler/Hughes Associates, Inc. together with the LES3D fire model were capable of predicting the effects of sprinkler spray discharge on a fire.
- The capability of the models used by Dr. Beyler in this litigation were "validated" for the purposes used in Beyler's analysis (in 1999).
- The sprinkler system protecting the east portion of the high bay section of the McFrugal's Warehouse was improperly designed due to the fact that clearances between the top of the storage and the ceiling exceeded 20 feet.

- The sprinkler system protecting the east portion of the high bay section of the McFrugal's Warehouse was not capable of controlling a fire in any significant quantity of combustibles stored on the floor.

- The installation of two levels of in-rack sprinklers in the multi-row racks as required by NFPA standards would not have significantly changed the outcome of the fire.

- An increase in the hazard classification of the materials stored in the multi-row racks (Group A plastics substituted for Class IV commodities) would not have significantly changed the outcome of the fire.

- The storage of flammable/ combustible liquids and aerosol containers (with flammable liquid contents) without special precautions in the warehouse would not have significantly changed the outcome of the fire.

> "*Fire protection engineers having knowledge of any alleged violation of these Canons shall cooperate with the proper authorities in furnishing such information or assistance as may be required.*" Canon 12

- Roof vents/draft curtains, in addition to the sprinkler protection provided, should have been provided due to the size of the building (roughly 1 million square feet).

- The installation of roof vents/draft curtains would have prevented "burning brands" from being distributed throughout the warehouse.

Each of Beyler's assertions in this litigation has been examined in detail in previous articles and it is my opinion that all of the assertions listed above are not credible. Further, it is my opinion that many of Beyler's assertions listed above are nonsensical. Quite obviously, the installation of in-rack sprinklers in the multi-row racks and an increase in the hazard of the contents of the multi-row racks would have had a significant influence on the capability of the sprinkler protection provided to control a fire, and, hence, the outcome of the first fire in the building.

Each of Beyler's assertions in this litigation has been examined in detail in previous articles and it is my opinion that all of the assertions listed above are not credible.

Put quite simply, in-rack sprinklers and the limitation of storage in multi-row racks to Class IV commodities (as required) would have significantly assisted the New Orleans Fire Department (NOFD) in their successful efforts to first control, then extinguish the first fire in the building. Perhaps, 6-1/2 hours of fire fighting by the NOFD may have been reduced to 20 or 30 minutes, or even less time, if in-rack sprinklers had been installed in the racks and the classification of the contents had been limited to Class IV commodities.

Was the portion of the sprinkler protection protecting the east portion of the high bay section of the warehouse adequate for the staging of Class IV commodities 12 feet or less in height? Again in my opinion, the design of the sprinkler protection for this portion of warehouse was in conformance with the recommendations of the research conducted by William Webb following the destruction of McCormick Place in Chicago in 1967. Webb's research demonstrated that sprinkler protection with ceiling clearances of 50 feet can still effectively control a fire. Clearances of 50 feet and more between the top of combustibles and the ceiling above are quite common in convention centers around the United States and the sprinkler protection for these facilities is still designed per Webb's research.

Given that Dr. Beyler's assertion in the McAuslin v. Grinnell Corporation litigation are so obviously in error, it would seem that there are only two possibilities with regard to his testimony-either Dr. Beyler is not the expert which he purports to be or Beyler intentionally misrepresented facts in sworn testimony regarding how sprinkler protection works. In other words, in my opinion once again, Dr. Beyler is either not an expert or he intentionally lied in sworn testimony. Either way, it would seem apparent that Dr. Beyler has violated the SFPE Canon of Ethics.

If the purpose of the SFPE is "*to maintain high ethical standards among its members*" why hasn't the SFPE addressed Dr. Beyler's apparent ethical lapses?

Given that one of the stated purposes of the Society is maintaining *"high ethical standards among its members*", you would think that the Society would be extremely interested in Dr. Beyler's testimony in the McAuslin v. Grinnell Corporation litigation, but apparently you would be wrong if you thought this. The Society of Fire Protection Engineers has been aware of Dr. Beyler's statements regarding the "validation" of the fire model for purposes of predicting the activation times of multiple sprinklers and the number of sprinklers which will activate for close to 24 months and has been aware of Dr. Beyler's statements regarding the capability of the fire model to predict the effects of sprinkler system water spray on a fire for roughly 11 months.

If the purpose of the SFPE is "*to maintain high ethical standards among its members*" why hasn't the SFPE addressed Dr. Beyler's apparent ethical lapses?

In a commencement speech made two months ago, Jeff Immelt, the Chairman and Chief Executive of General Electric Company, stated that "*. . .real, honest, ethical leadership matters*". Most members of the Society of Fire Protection Engineers would likely agree with Immelt's statement. If the leadership at the SFPE is aware of unethical behavior by a member of the Society who is both a Fellow and the recipient of the Guise Medal award, it seems that the leadership needs to take action in order *"to maintain high ethical standards among its members*", particularly where sworn testimony is involved.

Simply because Dr. Beyler is a Fellow in the Society and the recipient of the Guise Award, does not mean that he is somehow above compliance with the stated ethical standards of the Society.

"*Real, honest, ethical leadership matters*".

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