

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
ASSOCIATION OF ENGINEERING  
GEOLOGISTS,  
Defendant.

Entered: DECEMBER 19, 1954

1 the consent of the parties, it is hereby

2 ORDERED, ADJUDGED, AND DECREED as follows:

3 I.

4 This Court has jurisdiction of the subject matter of this  
5 action and of both of the parties hereto. The Complaint states a  
6 claim upon which relief may be granted against Defendant under  
7 Section 1 of the Sherman Act (15 U.S.C. § 1).

8 II.

9 This Final Judgment shall apply to Defendant and to  
10 Defendant's officers, directors, agents, employees, sections,  
11 committees, successors, and assigns, and to all other persons in  
12 active concert or participation with any of them who shall have  
13 received actual notice of this Final Judgment by personal service  
14 or otherwise.

15 III.

16 As used in this Final Judgment:

17 (A) "AEG" means the Defendant, Association of Engineering  
18 Geologists, and each of its sections;

19 (B) "Person" means any individual, sole proprietorship,  
20 partnership, firm, association, corporation, or any other legal or  
21 business entity;

22 (C) "Code of Ethics" means the Articles of and Guidelines to  
23 Defendant's current Code of Ethics or any subsequent edition or  
24 version of Defendant's Code of Ethics; and

25 (D) "Members" means Members, Associate Members, Affiliate  
26 Members, Corporate Members, and Contributing Members as defined by  
27 the By-Laws of AEG.



IV.

Defendant AEG is enjoined and restrained from directly or indirectly:

(A) Continuing, maintaining, initiating, adopting, ratifying, entering into, carrying out, or furthering any plan, program, or course of action which has the purpose or effect of suppressing, restraining, or discouraging commercial advertising, price competition, or solicitation in the sale of engineering geology services; and

(B) Continuing, maintaining, initiating, adopting, ratifying, disseminating, publishing, or seeking adherence to any Code of Ethics, statement of principle or policy, resolution, rule, by-law, standard, or collective statement which has the purpose or effect of suppressing, restraining, or discouraging commercial advertising, price competition, or solicitation in the sale of engineering geology services, or which states or implies that such advertising, price competition, or solicitation is unethical, unprofessional, or contrary to any policy of Defendant.

V.

Defendant AEG is ordered and directed to cancel and rescind each Article of and Guideline to its current Code of Ethics that is set out in Appendix A to this Final Judgment within 60 days of the date of entry of this Final Judgment. Defendant AEG is further ordered and directed to delete any other Article of and Guideline to its current Code of Ethics, and every other statement of principle or policy, resolution, rule, or by-law, which has the purpose or effect of suppressing, restraining, or discouraging

1 commercial advertising, price competition, or solicitation in the  
2 sale of engineering geology services, or which states or implies  
3 that such advertising, price competition, or solicitation is  
4 unethical, unprofessional, or contrary to any policy of  
5 Defendant.

6 VI.

7 Defendant AEG is ordered and directed within sixty (60) days  
8 from the date of entry of this Final Judgment to:

9 (A) Send a copy of this Final Judgment together with a letter  
10 on the letterhead of AEG, with a text identical to that of  
11 Appendix B of this Final Judgment, to each of its members;

12 (B) Attach to each copy of the current Code of Ethics and  
13 Professional Practice Guidelines in Defendant's possession,  
14 custody, or control hereafter mailed a statement that nothing in  
15 said Code or Guidelines prohibits commercial advertising, price  
16 competition, or solicitation in the sale of engineering geology  
17 services, and that such advertising, price competition, or  
18 solicitation is not unethical, unprofessional, or contrary to any  
19 policy of Defendant; and

20 (C) Publish the notice attached hereto as Appendix C in The  
21 Professional Engineer and The Professional Geologist.

22  
23 VII.

24 The Defendant AEG is ordered and directed to submit to  
25 Plaintiff an official written certification that it does not have  
26 in effect, and does not seek adherence to, any Code of Ethics,  
27 statement of principle or policy, resolution, rule, by-law,  
28



1 standard, or collective statement which has the purpose or effect  
2 of suppressing, restraining, or discouraging commercial  
3 advertising, price competition, or solicitation in the sale of  
4 engineering geology services, and that it does not pursue any  
5 other collective course of action which has the purpose or effect  
6 of suppressing or eliminating such advertising, price competition,  
7 or solicitation. This certification shall be submitted within  
8 sixty (60) days from the date of entry of this Final Judgment and  
9 shall be renewed thereafter annually for a period of ten (10)  
10 years.

11 VIII.

12 Defendant is ordered and directed, for a period of ten (10)  
13 years following the date of entry of this Final Judgment to:

14 (A) Send a copy of this Final Judgment to each new member; and

15 (B) State in any subsequent edition or version of its Code of  
16 Ethics or Professional Practice Guidelines that nothing in said  
17 Code or Guidelines prohibits commercial advertising, price  
18 competition, or solicitation in the sale of engineering geology  
19 services, and that such advertising, price competition, or  
20 solicitation is not unethical, unprofessional, or contrary to any  
21 policy of Defendant.

22 IX.

23 Defendant is ordered and directed to submit semiannually for a  
24 period of five years to the Department of Justice information and  
25 copies of correspondence with its members concerning the  
26 application, interpretation, or enforcement of any Code of Ethics,  
27 statement of principle or policy, rule, by-law, standard, or  
28

1 collective statement pertaining to advertising, price competition,  
2 or solicitation by engineering geologists.

3 X

4 Defendant is ordered to file with Plaintiff on the anniversary  
5 date of the entry of this Final Judgment, for a period of ten  
6 years, a report setting forth the steps it has taken during the  
7 prior year to comply with the provisions of this Final Judgment.

8 XI.

9 For the purpose of determining or securing compliance with  
10 this Final Judgment, and subject to any legally recognized  
11 privilege, from time to time:

12 (A) Duly authorized representatives of the Department of  
13 Justice shall, upon written request of the Attorney General or  
14 of the Assistant Attorney General in charge of the Antitrust  
15 Division, and on reasonable notice to Defendant made to its  
16 principal office, be permitted:

17 (1) Access during office hours to inspect and copy  
18 all books, ledgers, accounts, correspondence, memoranda,  
19 and other records and documents in the possession or  
20 under the control of Defendant, who may have counsel  
21 present, regarding any matters contained in this Final  
22 Judgment; and

23 (2) Subject to the reasonable convenience of such  
24 Defendant and without restraint or interference from it,  
25 to interview officers, employees, and agents of such  
26 Defendant, who may have counsel present, regarding any  
27 such matters.



1 (B) Upon the written request of the Attorney General or  
2 of the Assistant Attorney General in charge of the Antitrust  
3 Division made to Defendant's principal office, Defendant shall  
4 submit such written reports, under oath if requested, with  
5 respect to any of the matters contained in this Final Judgment  
6 as may be requested.

7 No information or documents obtained by means provided in this  
8 Section shall be divulged by any representative of the Department  
9 of Justice to any person other than a duly authorized employee or  
10 representative of the Executive Branch of the United States,  
11 except in the course of legal proceedings to which the United  
12 States is a party, or for the purpose of securing compliance with  
13 this Final Judgment, or as otherwise required by law.

14 XII.

15 This Final Judgment shall remain in effect until ten (10)  
16 years from the date of entry.

17 XIII.

18 Jurisdiction is retained by this Court for the purpose of  
19 enabling any of the parties to this Final Judgment to apply to  
20 this Court at any time for such further orders or directions as  
21 may be necessary or appropriate for the construction or carrying  
22 out of this Final Judgment, for the modification of any of its  
23 provisions, for its enforcement or compliance, and for the  
24 punishment of any violation of its provisions.

XIV.

Entry of this Final Judgment is in the public interest.

Entered: DECEMBER 19, 1984

/s/ JUDGE DAVID V. KENYON  
United States District Court Judge



## Appendix A

Article (5) - The Engineering Geologist shall announce his availability for professional work in a manner which will maintain personal dignity and that of the profession.

### Guidelines:

\* \* \*

- b. In connection with this practice he shall not use any commercial advertising media such as newspaper and magazine space advertisements, indiscriminate direct mailings, and radio and television time, as well as items bearing his name, such as pencils, blotters, calendars, etc.

\* \* \*

Article (7) - The Engineering Geologist shall compete for employment with others in the Profession on the basis of qualifications and a fair charge for his or her services.

### Guidelines:

\* \* \*

- b. He shall compete fairly with other engineering geologists by charging fees customary for practice in the same area and for the same type of work.
- \* \* \*
- d. He may, where price competition is clearly not involved, discuss with a prospective client: Qualifications, scope of work, availability, and basis for charges for services.
  - e. He may submit a priced proposal, either written or verbal which includes a stated fee or estimated range of fees in any form in response to:
    - 1. A public advertisement for bids.
    - 2. Any invitation, unless there is reason to believe that price will be the overriding consideration in award of the work.
  - f. He shall not be a party to requesting two or more proposals for comparative purposes where price is to be the primary consideration in award of the work.

- g. He shall submit a proposal for an engineering geology engagement only when invited to do so, or when he judges it to be in the best interest of a client or potential client.
- h. He shall not solicit an engineering geology engagement by reducing charges after being informed of proposals of others.

\* \* \*

Article (8) - In cases where negotiations proceed on the basis of prequalification and subsequent negotiation in fixed order, the Engineering Geologist submitting a proposal shall assume a passive role until such time as his or her turn for negotiations has been specified by the client.

Guidelines:

- a. He shall not continue to seek employment on a specific engagement after being advised that another engineering geologist has been selected, subject to approval of detailed arrangements.
- b. He shall not solicit or accept employment from a client who already has an engineering geologist under contract for the same work, not yet completed or paid for.
- c. He shall not, in the event that another engineering geologist has made a study and report on a specific project, approach the prospective client regarding subsequent phases of the project, unless such contact is initiated by the client.



Appendix B

Re: United States v. Association of Engineering Geologists (Civil No. \_\_\_\_\_)

Dear Sir or Madam:

The Association of Engineering Geologists (AEG) has recently entered into a Final Judgment with the United States Department of Justice to settle a civil antitrust case filed against the Association. That case, United States v. Association of Engineering Geologists (Civil No. 84 0496) concerned the following AEG ethical rules and guidelines: Article (5), Guideline b. which prohibits commercial advertising; Article (7), Guidelines b. and d.-h. which require engineering geologists to charge "customary" fees and which prohibit them from making price the "overriding" or "primary" consideration; and Article (8), Guidelines a.-c. which prohibit solicitation of engineering geology engagements after being advised that "another engineering geologist has been selected," is "under contract for the same work," or has made a "study and report on a specific project."

Under the terms of the Final Judgment, all of the foregoing rules and guidelines have been deleted from AEG's Code of Ethics. AEG members will now be able to advertise their services, offer competitive price quotations, hourly rates, or price estimates to all potential customers, and solicit engineering geology engagements even if another engineering geologist is being considered or is under contract for all or part of the same work.

In addition, the Final Judgment, which was signed by Judge David V. Kenyon of the Central District of California,

prevents AEG from adopting in the future any rule, policy statement, or standard which would suppress, restrain, or discourage commercial advertising, price competition, or solicitation in the sale of engineering geology services, or which states or implies that such advertising, price competition, or solicitation is unethical, unprofessional, or contrary to any AEG policy.

A copy of the entire Final Judgment is enclosed with this letter and will in the future be available upon request. I urge you to read it carefully.

Sincerely yours,



### Appendix C

The Association of Engineering Geologists (AEG) has recently entered into a Final Judgment with the United States Department of Justice to settle an antitrust case filed against the Association. In that civil action, United States v. Association of Engineering Geologists (Civil No. 84 0496), the Government challenged various rules and guidelines from AEG's Code of Ethics which, among other things, prohibited commercial advertising; required engineering geologists to charge "customary" fees; prohibited engineering geologists from making price the "overriding" or "primary consideration;" and prohibited solicitation of engineering geology engagements after being advised that "another engineering geologist has been selected," is "under contract for the same work," or has made a "study and report on a specific project."

Under the terms of the Final Judgment, these rules and guidelines have been deleted from AEG's Code of Ethics. AEG members will no longer be prohibited from advertising their services; offering competitive price quotations, hourly rates, or price estimates to all potential customers; or from soliciting engineering geology engagements even if another engineering geologist is being considered or is under contract for all or part of the same work.