

## Professional Ethics on Trial and in the Books

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Environmental professionals, like most people, often have to emphasize the bright side of things. The phrase “global climate change” sounds soothing compared to the thought of rising sea levels and vicious storms. The image of a toxic-laced superfund site inspires dread, whereas a “brownfield” might become green someday. But there is a difference between serving bad news sunny-side up, and outright fraud. It is an ethical border, drawn by law and codes of conduct.

When Valcar Bowman, CEP, worked for the Mobil Oil Corporation in the 1980s, his bosses told him to ignore that border, to reword and hide environmental reports. When Bowman wouldn't do it, the company fired him. The result was a million-dollar lawsuit, and legal recognition of the NAEP Code of Ethics.

### Accusations, Attorneys, and Cover-ups

Valcar A. Bowman, Jr. began working for Mobil in 1977. He earned excellent performance reviews as an environmental control manager in the petrochemical division. In 1984, he was promoted to Manager of Environmental Affairs—the company's second-ranking environmental post—in Princeton, New Jersey.

Bowman was not long in his new job when he first met trouble. Mobil's lawyers repeatedly asked Bowman to alter the company's internal environmental audits. Bowman repeatedly refused. He thought the requests improper and unethical. And if higher executives were kept blind to the reports, then Bowman could be held personally responsible for violations.

In July 1985, the Los Angeles District Attorney ordered a raid on Mobil's Torrance, California plant. The investigators were searching for evidence of air pollution violations. Mobil worried that they would raid the Bakersfield, California refinery next. The company lawyers asked Bowman to go to California, and remove environmental reports from the Bakersfield plant. Again, Bowman declined. “I not only refused to go to Bakersfield,” he later recalled, “I told my staff members not to get involved in that kind of mess.”

Subsequently, his performance reviews turned poor. Bowman was “disruptive.” In 1986, he was out of a job. And so, he sued, claiming that he was wrongfully discharged in violation of public policy.

The case was ugly. Mobil called Bowman a paranoid personality, and presented the jury with large placards bearing the dictionary definitions of “bogus,” “swindle,” “hypocrite,” and “heist.” Bowman said the company's pretense for firing him—cost cutting—was “a sham,” as Mobil had made record profits that year. Mobil countered Bowman's central claim—that his removal violated public policy—by arguing that the NAEP Code of Ethics served no other interests than its members'; therefore, it could not be public policy.

Bowman's lawyer claimed that the “plain meaning of the preamble to the NAEP Code of Ethics demonstrates that it is designed to serve the interests of the public”: *As the keystone of professional conduct is integrity, Environmental Professionals will discharge their duties with fidelity to the public, their employers, and clients, and with fairness and impartiality to all. It is their duty to interest themselves in public welfare, and to be ready to apply their special knowledge for the benefit of mankind and their environment.*

The jury agreed. Bowman won \$1,375,000 in compensation and punitive damages.

His wife Pamela was found to have suffered a loss by his dismissal. The case lasted three years, finally ending in 1991.

Mobil's appeal was dismissed without comment.

### One Decade Later

After his firing and before he won the suit, Valcar Bowman says he was blacklisted. Corporate environmental managers returned his applications 617 times. Eventually, he started his own environmental consulting business.

He invested some of his tax-free award, and bought a home in Georgia. His seminars take him everywhere, and he still travels for pleasure. “I'm happy,” he said in an interview, and he enjoys his work, which he describes as “continuing to show people how to be responsible. . . . I will probably never retire. Environmental management is my career field, and I'll do it until the day I die.” As for Mobil (now ExxonMobil), Bowman bears no ill will. “I'd like a chance to check them out,” he said. “I've got no axes to grind.” Surprisingly, he looks forward to working with them again, consulting or advising. Several calls to Mobil regarding the case did not garner a response.

Bowman encourages environmental professionals to remain honest, and to document everything if they face pressure. He thinks that the younger generation of environmental professionals may have a greater respect for ethical codes. “They're post-Earth Day. The younger environmental professionals are more prone to meeting their obligations.” And corporations, he says, may have realized that it pays to be more environmentally conscientious: “They learn, they learn.” In 1991, he wrote this for the NAEP newsletter:

On occasion, during the course of your career, situations may develop that put pressure on you to compromise your professional integrity. These are nightmares that

environmental, health, or safety professionals dread. . . . What do you do? You simply do the right thing.

The court's decision in *Bowman v Mobil Oil Corp.* clarified and strengthened the case that professional codes of ethics—like the NAEP's—constitute public policy. Without such a precedent, employers would have greater powers to squelch dissenting employees without fearing reprisal. The court rejected the claim that the NAEP Code served only the interests of its members. Absent any applicable legislation, the court decides if a professional code serves the public interest.

Also, the court declared that it was irrelevant whether or not Bowman was a NAEP member at the time. His high position and experience classified him as an environmental professional. This suggests that the NAEP code could be applied in similar cases to environmental professionals lacking membership in the NAEP.

Bowman hopes his case has had a positive effect, and he may be correct. Ten years after *Bowman v Mobil Oil Corp.*, the law still generally favors employees that “do the right thing.” In addition, all US states have “whistleblower” laws of varying scope that protect employees who make noise about wrongdoing. Bowman calls himself an “internal whistleblower.”

However, Supreme Court decisions give employers more leeway in firing and quieting employees. Increasingly, employment contracts include clauses that eliminate an employee's right to sue: both sides agree to settle disputes through third-party arbitration. When a gay Circuit City employee sued the company over harassment at work, the company pointed to the arbitration clause in his contract. The Supreme Court ruled that the employee could not sue, calling the contract legal and the arbiters' decisions binding. This ruling only applies to non-union employees.

Bowman's case, and others like it, has shown that professionals can serve the public above their employer and be good in the eyes of the law. Although legal precedents change with time, history does not remember frauds with favor. “Most certainly, without a doubt,” Bowman says, “someone has to take a stand.”

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