

## **Report on a Case by the Board of Ethical Review**

**Case No. 76-12**

### **Political Contributions—Solicitation by Retained Consultant**

#### **Facts:**

Richard Roe, P.E., had a continuing series of engineering contracts with a three-member county board. While working under this arrangement, Roe in several successive elections headed a special campaign solicitation committee which raised substantial amounts for the political campaigns of two incumbent county commissioners. Following their reelection in each case, Roe continued to receive engineering assignments from the county board. The political committee headed by Roe operated in strict accordance with applicable state and local laws governing political contributions.

#### **Question:**

Was it ethical for Roe to continue to accept engineering assignments from the county board having engaged in raising political funds for incumbent members of the county board?

#### **References:**

*Code of Ethics*-Section 1(g)-"He will avoid any act tending to promote his own interest at the expense of the dignity and integrity of the profession."

Section 2(b)-"He shall seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health, and well-being of his community."

Section 3-"The Engineer will avoid all conduct or practice likely to discredit or unfavorably reflect upon the dignity or honor of the profession."

Section 4-"The Engineer will endeavor to extend public knowledge and appreciation of engineering and its achievements and to protect the engineering profession from misrepresentation and misunderstanding."

Section 11(b)-"He will not pay, or offer to pay, either directly or indirectly, any commission, political contribution, or gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies."

#### **Discussion:**

We have treated various aspects of political activity and political contributions by engineers under a variety of circumstances, the most recent involving the question of the amounts which engineers engaged in public project work may contribute through a political action committee (Case 75-130). In two earlier cases we dealt also with the amounts an engineer may contribute as related to securing engineering assignments (Case 60-9 and Case 73-6). Other political contribution or political influence cases have

dealt with political influence not involving political contributions (Case 69-1) and assistance from a Congressman to secure a contract (Case 66-6).

We have cited these earlier cases to indicate the broad range of issues which may arise for engineers performing or seeking to secure contracts for their services from public bodies, which by definition are political bodies. A principal theme throughout these cases has been the recognition of dual considerations inherent in the political climate by which we govern ourselves: the right (some would say duty) for engineers along with all other citizens to actively participate in the political process and play a role in influencing the selection of public officials and at the same time the ethical restriction engineers have placed on themselves not to utilize political influence to secure engineering contracts.

It is basic to the profession's ethical standards that engineers be selected for engagements only on the basis of merit and qualification. Thus, the profession has historically gone to great lengths to spell out in precise detail the proper procedures for the selection of engineers by both public and private clients on the sole basis of qualification. Yet it would be naïve not to recognize that in the case of public bodies the choice of the best qualified engineer or firm may be influenced in the minds of the public authorities by elements of personal relationship, associated civic activities, reputation in the community, and even political considerations. Although the selection should be made objectively to the extent possible, in the final analysis the choice of best qualified must be made by humans who are subject to the kinds of intangible relationships and backgrounds noted above.

Trying to balance these conflicting factors both in the code and in actual practical operations, the best the profession can do is evaluate specific factual circumstances in which a political relationship may exist. Thus we have attempted previously to identify guidelines as to the amount of political contribution, or express an adverse view on some forms of direct political influence.

As we set forth in Case 73-6, the balancing test in trying to define these "thin line" relationships is "how the profession and the public may properly or improperly relate the amount of a political contribution to the later receipt of contracts from the recipient of the earlier contribution, directly or indirectly."

In the facts before us, the "contribution" is not directly financial, but realistically the activity of Roe has direct financial implications, and in a real sense his effort to raise "substantial" funds for the candidates will be regarded by the public in the same light as those who directly give financial support.

We also recognized this aspect of the problem in Case 73-6 in the comment that "to actively participate in the political process cannot be construed to mean solely the donation of money to the coffers of a candidate or party." And further in that case we applied the "Caesar's wife" test, first enunciated in Case 62-12.

Applying that same kind of rationale and logic to the case before us, we further note the application of the principles of §1(g), §3, and §4 of the code, all of which in somewhat different words establish the basic premise that in case of doubt the engineer must refrain from conduct which may create an unfavorable impression on the part of the public. How far that principle may extend in the political arena or other differing circumstances we leave to future factual situations. But in the facts before us we have little doubt that the connection between the fund raising activities of Roe and his continuing acceptance of contracts from those he supported by his activity must lead to public opinion conclusions that there is a clear degree of self interest, and strong suspicion that Roe intends to obtain a direct financial benefit from his political involvement. Under that circumstance it follows that there will be an adverse public reflection on the dignity and honor of the profession.

We would emphasize, however, that what we have said in this case should not be construed as a blanket condemnation of political activity by engineers, a practice which should be continued and expanded. Rather, the line we have drawn should indicate to the profession that in undertaking political efforts the engineer who is in or may be in a position to secure advantage from that activity must make what may be a hard choice—refrain from such political involvement or remove himself from consideration for assignments or other benefits which may be construed to flow from his political support.

**Conclusion:\***

It was not ethical for Roe to continue to accept engineering assignments from the county board having engaged in raising political funds for incumbent members of the county board.

*\*Note:* This opinion is based on data submitted to the Board of Ethical Review and does not necessarily represent all of the pertinent facts when applied to a specific case. This opinion is for educational purposes only and should not be construed as expressing any opinion on the ethics of specific individuals. This opinion may be reprinted without further permission, provided that this statement is included before or after the text of the case.

**Board of Ethical Review**

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