

**2022 National Society of Professional Engineers
Milton F. Lunch Ethics Contest Submission**

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Ethical Issue #1, Campaign Contributions

Facts:

Engineer A is the president of a consulting engineering firm, Company XYZ, that provides engineering services for the public entities in its region. A significant percentage of the firm's work over the past ten years has been on behalf of County X. Each year, County X issues Requests for Proposals for upcoming projects. Company XYZ is regularly awarded one or more projects by the county. County Commissioner C (one of a commission of three) is facing a hotly contested race for reelection. County Commissioner C broadly solicits campaign contributions, pointing each potential donor to state statutes that provide the legal limits on campaign contributions. Engineer A decides to make a personal contribution in the amount of \$2,500 to County Commissioner C's campaign, an amount that is within the statutory guidelines for campaign contributions. During the campaign, the list of contributors and amounts is made public as required by state law. Engineer B, who works for a firm that regularly competes with Company XYZ for County projects, notices that Engineer A's contribution was one of the larger amounts on County Commissioner C's donor list, and files a complaint with the State PE Board.

Questions:

Was Engineer A's campaign contribution ethical? Was Engineer B's complaint to the State PE Board ethical?

References:

Code of Ethics - Section II.5 – "Engineers shall avoid deceptive acts."

Section II.5.b – "Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by a public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them."

Section III.1.e – “Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.”

Section II.1.f – “Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.”

Section III.6 – “Engineers shall not attempt to obtain employment or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.”

Section III.7 – “Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practices shall present such information to the proper authority for action.”

Discussion:

All engineers are expected to commit to and maintain the highest standard of honesty and integrity. In doing so, an engineer upholds the reputation of the profession, their company, and themselves. The National Society of Professional Engineers (NSPE) Code of Ethics is commonly used to guide engineers in what actions are ethical and unethical, though certain cases arise where the code does not provide a clear solution. This case, amongst many others in the past sixty years, questions the ethical limits of political campaign contributions made by engineers.

To answer the first question presented above, one must first consult similar cases presented by the NSPE Board of Ethical Review (BER). The earliest BER case dealing with political contributions by engineers is Case 62-12. In asking broadly about the ethicality of engineers making political contributions to the city, state, and federal agencies from which they may receive work, the BER determined that individuals could contribute to political campaigns on the basis of being below a “nominal” value and ensuring their intent was for supporting their political views. The nominal value set by Case 62-12 was \$100. In a later case, Case 73-6, the nominal value was scrutinized due to inflation and the differences in monetary impact for different government levels. It was then determined that in the absence of improper intent by an engineer, all donations were ethical, but

donations larger than the nominal value of \$1000 were found to be unethical when the engineers then accepted contracts from the agencies they made the donations to.

Other cases dealing with political contributions, such as Case 88-2 and 75-13, further reinforced the previously held stances by the BER. Case 88-2, which dealt with a principal engineer who donated \$2000 to the media campaign of the county board chairman, ruled that engineers acting in good faith that made donations below the nominal amount were ethically allowed to perform work for the county following the contribution. Case 75-13 ruled that a group of engineers who individually donated money to a political action committee (PAC) were within their ethical rights to do so due to the remoteness between their contributions and project grants.

Looking at the facts presented in this case, it is difficult to know the intention of Engineer A's donation. Since there was no information provided of engineers from Company XYZ or Engineer A making previous campaign contributions to County X officials, and thus project awards have not indicated foul play (and have been solely based on merit), one could guess that the contribution from Engineer A was made in good faith to support County Commissioner C. However, one could also guess that Engineer A's contribution was made in hopes of receiving the same high number of projects for Company XYZ by helping with Commissioner C's re-election.

In utilizing the guidelines provided by previous cases and the facts of the case, Engineer A did not act unethically when contributing to the campaign due to both the lack of evidence of foul intent and the contribution following statutory guidelines. However, the donation of \$2500 that Engineer A provided exceeds the nominal value established by Case 88-2 of \$2000, and thus they would be acting unethically and risking violation of Sections II.5 and II.5.b if they take any projects from County X following the donation. Since it was stated that Engineer A's contribution was amongst the larger amounts, the nominal value may be considered below \$2000 for this situation, though further details about the contributions would be required.

It is important to note that engineers with senior positions, such as Engineer A who is described as the president of Company XYZ, should be cautious with donations to political campaigns. With elevated positions that hold more responsibility, it is as equally if not more important for such engineers to perform actions that leave no room for discussions of dishonesty. Engineers must uphold the integrity of the profession and follow Section III.1.e of the Code of Ethics while still being politically active individuals.

Case 02-11 presented by the BER can be utilized to help answer the second question of this case. In Case 02-11, an individual described as Engineer A filed an anonymous report to the state licensure board about the behavior of another engineer, Engineer B, that they believed was in serious violation of the Codes of Ethics. In discussing whether the action of filing the anonymous complaint was ethical, the BER decided that Engineer A followed Section II.1.f of the Code of Ethics and acted ethically if the state board had a method of reviewing anonymous complaints. The BER noted that they highly recommend engineers make official complaints then anonymous so individuals could know is filing against them, but also prefer having anonymous complaints to no complaints at all.

Engineer B made an official complaint with the State PE Board rather than an anonymous complaint in the current case. It may have been beneficial for Engineer B to discuss his concerns privately with his supervisor or higher-ranking officials in this company before reporting the concern, but Engineer B did not violate the Code of Ethics by filing a complaint. Engineer B reported his concern to the state licensure board, the appropriate reporting authority for this case, and followed Sections II.1.f and III.7. Engineer B additionally avoided untruthfully damaging the reputation of Engineer A by keeping the matter private between themselves, the State PE Board, and Engineer A while the concern is investigated. The intentions behind Engineer B's complaint may be questioned since it is known that Engineer B and Engineer A work for competitive firms, but there is not enough proof to show malicious intent and a violation of Sections III.6 and III.7.

Conclusions:

1. Engineer A's campaign contribution was ethical. However, it would be unethical if Engineer A and Company XYZ receive projects from County X following the donation due to Engineer A's contribution exceeding a nominal value.
2. Engineer B's complaint to the State PE Board was ethical.