Report on a Case by the Board of Ethical Review

Case No. 62-12

Political Contributions

Facts:
Engineers who are officers or partners of various organizations such as consulting firms, construction companies, manufacturing companies, etc., make it a practice to contribute to campaign funds on behalf of those seeking various public offices. These organizations do a substantial portion of their work for Federal, city, and state agencies. The engineers also contribute as individuals to both major political parties and in some cases to rival candidates for the same office.

Question:
Is it unethical for these engineers to contribute to political parties or candidates for public office when a portion of the business of the firm with which they are .associated is derived from public bodies?

References:
Canons of Ethics Canon 19-"The engineer will endeavor to protect the engineering profession collectively and individually from misrepresentation and misunderstanding."

Rules of Professional Conduct - Rule 4-"He will not offer to pay, either directly or indirectly, any commission, political contribution, or a gift, or other consideration in order to secure work, exclusive of se curing salaried positions through employment agencies."

Discussion:
Here we must deal with motivation-what was in the mind of the contributor. It is beyond doubt that the engineer as a responsible citizen has and should have the same opportunity as others to hold political views and support the party or candidate of his choice for political office. Such interest and activity is to be encouraged.

The implication of the facts, however, is that the political contributions were made to curry favor and place the engineer, and through him his firm, in a favorable position to secure contracts through the influence of the candidate elected to a public office which determines the award of such contracts.

In essence, the question raised here is similar to that posed in Case 60-9, involving the giving of or receiving gifts. There we said, "no blanket rule covering all situations has been discovered," and further that ". . . we must apply a criterion which reasonable men might reasonably infer from the circumstances. . . ."

The size of the contribution relative to the public office being sought is a material factor. A nominal donation would not imply that the contribution would result in favoritism, whereas

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a donation of several thousand dollars might well carry such a connotation. The nature of the office is another material factor-is it one which carries with it the power to determine whether a firm would be given a contract by the public body? It has been suggested that if contributions are made to both political parties, or rival candidates, the possibility of unethical conduct may be eliminated. We cannot accept that reasoning. If there is an ulterior motive this is only stronger evidence of it by virtue of a form of "insurance" so that the contributor is assured of having "a friend in the right place" regardless of the outcome. In fact, we would suggest that contributing to both parties or rival candidates is evidence of lack of good faith and political conviction, hence, it raises suspicion of improper motives.

It is hardly possible to draw a precise line in dollar amounts for the purpose of defining when a political contribution becomes an improper incentive to secure contracts on the basis of favoritism. As in all ethical applications, the only sound rule is that when conduct may raise suspicion and doubt as to motive, it is the better part of wisdom to stay well within the line. The engineer has a right to give political contributions, but he has a duty under Canon 19 to avoid doing so in such a manner that the engineering profession will be exposed to misunderstanding and distrust on the part of the public. Furthermore, Rule 4 specifically prohibits political contributions intended to influence the award of contracts.

At the risk of being arbitrary, therefore, we would suggest that any political contribution in excess of $100 should be given only with the understanding that the engineer ethically may be required to divest himself or his firm of contractual relations with the public agency which is controlled or substantially influenced by the candidate or party to whom the contribution was made. There may well be exceptions, but we feel that the engineer must expect to carry the burden of proof that the award of a contract to him or his firm which it is charged was made on the basis of his political financial support was not, in fact, a result of his contribution beyond the suggested limit.

Conclusion:
It is not unethical for an engineer to contribute to a political party or a candidate, per se, but it is unethical to make contributions in the expectation of being awarded contracts on the basis of favoritism.

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