Report on a Case by the Board of Ethical Review

Case No. 75-14

Political Candidacy—Criticism of Other Engineers

Facts:
Richard Roe, a professional engineer, who had previously been mayor of a town, became a candidate for mayor of the same town. He published a political advertisement in the local newspaper, reading as follows:

- *IT'S A FACT*

- *In the last 3 years OVER a quarter million dollars ($250,000) of your tax money was spent on engineering & consultant fees for streets-sewers-and pump station design work...*

- *Former Mayor Richard Roe had a Professional Engineer, John Smith, P.E., on his staff for four years at less than ONE QUARTER OF THE ABOVE COST FOR THE SAME WORK*

TAXPAYERS

YOU NEED Richard Roe, P.E., as MAYOR

His registered engineering and business ability will work for YOU

ELECT RICHARD ROE, P.E.
MAYOR

"To Be Sure"

Question:
Was the political advertisement utilized by Roe ethically permissible?

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 11 – "The Engineer will not compete unfairly with another engineer by attempting to obtain employment or advancement or professional engagements by competitive bidding, by taking advantage of a salaried position, by criticizing other engineers, or by other improper or questionable methods."

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Discussion:

Several of the points raised in this case have been resolved in earlier cases, such as Roe's use of "P.E." after his name in the political advertisement. In Case 61-1 we held that an engineer seeking public office may properly publicize his engineering competence and background. In that case, however, we dealt with the use of the "P.E." seal by an engineer-political candidate, holding that use of the seal was not ethically proper. We made the distinction that the P.E. seal is an instrument of identification authorized by the registration law and is intended for use only on engineering documents and is not intended to be used for promotional purposes. However, we believe a proper distinction can be made when the political candidate entitled to do so only uses the letters, "P.E." as an indication of his status. In other related cases we held that it was ethically permissible for engineers seeking public office to utilize the Engineers' Creed in political advertisements (Case 65-7), the distinction again being that the Creed is not an expression of a legal nature to be used only on engineering documents.

The primary issue in this case, however, raises the further question of an engineer-candidate for public office using language critical of other engineers in order to appeal to the voters. There was an element of this question in Case 74-10 in that the engineer candidate in that case had implied that there were some inequities in state laws relating to employment of professional services. On that point of implied criticism of other engineers we said:

"... We are not prepared to say that such implications are not permissible in a political campaign, nor do we pass upon the validity or soundness of such possible charges of mal-administration of public officials, be they engineers or otherwise."

The criticism of other engineers is quite direct and can be construed as an attack on other engineers retained by the city as well as any city engineers involved. Moreover, it is a broad and sweeping attack on the concept of a local community using engineers in private practice on the basis that such use constitutes a waste of public funds. Section 11's prohibition of "criticizing other engineers" is in a context related to unfair competition between engineers for employment, advancement or securing professional engagements. It is doubtful that the language of §11, taken literally, was intended to apply to general criticism of engineers as a class by an engineer seeking public office.

We are constrained to observe, however, that the entire tone and tenor of the political advertisement are couched in emotional terms, which is admittedly not unusual in political campaigning. It is not our function to pass judgment on the merits of the broader question of the pros and cons of using "in-house" engineers versus outside consultants. That issue is one for debate and resolution as a policy and legislative matter. But we do say that the claim that the local community previously obtained the same quantity and quality of engineering services during the previous administration of Mayor Roe for less than one-fourth of the amount paid during the succeeding administration is, on the face of it, an unreasonable assertion in the absence of evidence that the town had paid exorbitant fees

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to its consultants. We assume that there is no basis for or evidence of illegal and unethical conduct on the part of either the city officials or the engineers, or both, and proceed on the assumption that the outlandish claim is nothing more than political rhetoric. As such, we must attempt to balance the caution of §3 of the code with the principle we stated in Case 74-10:

"It follows that the engineer to be on an equal footing with other candidates must have reasonable latitude and flexibility in shaping and presenting his qualifications to the electorate. He must not be unduly handicapped by too rigorous an application of ethical considerations to the point that he is unable to wage a vigorous campaign and take advantage of his background, experience and claimed superiority over others seeking the same office."

The key words in this statement of principle are "reasonable latitude and flexibility," and "unduly handicapped. . ." In the instant case we believe that the extravagant statements by Roe are not "reasonable " and exceed the permissible latitude and flexibility to which he is entitled in order to wage a vigorous campaign. Neither do we believe he would be "unduly" handicapped if ethically required to avoid such extreme statements critical of engineers as a class unless he is able to document his charge. Even though we find that §11 does not apply under the circumstances, we do find that §l(g) and §3 are all-inclusive and apply to the conduct of engineers in any of their endeavors, whether or not directly related to the offer or performance of engineering services so long as the conduct or practice of the engineer does reflect upon the dignity, honor and integrity of the profession. To use this type of tactic to the effect that engineering services were improperly performed is a direct affront to the dignity, honor and integrity of the profession.

Conclusion:*
The political advertisement utilized by Roe was not ethically permissible.

***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.

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