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

**Case No. 78-4**

**Conflict of Interest – Design Commissions and Fund Raising**

**Facts:**
A local group of business and community leaders banded together and organized a "Promotion Committee" for the purpose of raising funds and conducting an educational program in support of a favorable vote for a $100,000,000 bond issue to finance a variety of public works projects. The projects contemplated to be financed by the bond issue would entail extensive engineering and architectural services of substantial value to local engineering and architectural firms to the extent they might secure design commissions for such projects.

The Promotion Committee has approached local engineering firms along with similar contacts with bankers, realtors, insurance companies, and other local businesses to solicit funds for the public education program in support of the bond issue.

**Question:**
Is it ethical for engineering firms to contribute funds to the promotion fund in the expectation or possibility that those firms might later seek design commissions arising from the public works program?

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

**Discussion:**
Section 2 of the code is one of many provisions which are essentially hortatory and not susceptible of precise construction or enforcement. Nevertheless, it is a pertinent and important aspect of overall ethical behavior. We may assume in the context of this case that the proposed public works program for the community would be a constructive contribution to Public Works Promotion Committee and would advance the well-being of the citizenry. On that basis it would be proper and desirable for engineers, along with others, to actively support the bond issue through funds and otherwise.

The more discussable question is whether an engineer undertaking an active support role could be held to have paid "indirectly" a "consideration" in order to secure work within the intent of 11(b). It could be argued by critics of the bond issue that the motivation of

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supporting engineers is personal or selfish in that they may stand to gain from the approval of the public works projects. And that may indeed be true to some degree. We considered a related question in Case 75-13, there involving the question of contributions to a political action committee without identification of the amount contributed to candidates for public office by particular names. The board concluded, with one dissenting vote, that it would be permissible for engineers to contribute unlimited amounts to the PAC under the "indirect" test of 11(b), noting that "There is perhaps no completely acceptable answer to the problem; engineers have a right to participate in the political process within the confines of applicable laws, and they have a duty under the Code of Ethics to refrain from that activity under circumstances in which they may be suspect of improper motivation."

In the case before us the "motivation" may be a mixed one; which is often the case in many of the day-today decisions which must be made by those in professional practice. But in the circumstances of this case, even if there is some degree of self-interest motivation, we believe it is sufficiently remote and removed from undue influence to eliminate any substantial concern that the essence of 11(b) is offended.

We are not advised in the facts of the amounts proposed to be contributed to the promotion fund by various engineering firms, or the relative relation of those amounts to the total fund. We can conceive of a situation in which one or a few firms might contribute so substantially to the total fund that Case No. 78-4 suspicion could be aroused that the predominant motivation was to "buy in" for future commissions. In the absence of any evidence of that promotional problem in this case, however, we would only enter a cautionary note that the financial support of the engineering firms should be generally in line with those of other elements of the community interested in furthering the public works program.

**Conclusion:***
It is ethical for engineering firms to contribute to the promotional fund in the expectation or possibility that those firms might later seek design commissions arising from the public works program.

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