

Advisory Opinion No. 75-20

QUESTION:

Did I use "political favors" to obtain the two clients mentioned in my petition to the Commission? Was I in violation of the Code of Ethics when I voted favorably regarding these two clients on a matter before the local legislative body, even though, at the time of the vote, I did not have either client nor was I negotiating for their business?

RESPONSE:

The first of these questions is a factual question. This Commission has neither the competency nor the authority to respond to questions of fact. Questions of fact must be settled by the courts and the law enforcement agencies. The authority and competency of this Ethics Commission is solely to apply the Code of Ethics from Chapter 540 of the 1975 Nevada Statutes to specific set of situations and circumstances and which sets of situations and circumstances must be supplied to us by the requestor himself or by some one authorized by him. Therefore, this Commission cannot and does not in this instance make any advisory opinion regarding the facts of the "political favors" alleged.

In regard to the favorable vote in your local legislative body on a matter of interest to your client and the subsequent acquisition of this person as a client, again the Ethics Commission makes no ruling upon the facts involved. obviously, since you did not then have the client relationship nor anticipate having it, you could not have abstained from voting.

Nor does this law anywhere forbid an official from accepting a business relationship with a person or firm after having favorably ruled regarding that person or firm in a matter considered by the official in his official capacity. The Code of Ethics as incorporated in Chapter 540 of the 1975 Statutes does not place any restrictions on inception of a business relationship subsequent to an appearance before the official in his official capacity.

However, the Ethics Commission would point out that the acceptance of client relationship in one's private business within a short period of time from a person or firm who has appeared before the official acting in his official capacity and who has received a favorable action, and if the newly undertaken business relationship would involve substantial sums or money, or equivalent goods or services, may well appear to a reasonable person that the inception of the business relationship is related to the favorable decision. Knowledge that the client relationship was obtained through competitive bidding and other normal business practices may not become as well known as the fact of obtaining or of the transfer of the business to your firm. The acceptance of new accounts in one's business relationship from a person or firm for whom one has recently given a favorable action will frequently have the appearance of being an economic reward for an official action taken. Although not directly forbidden, such action is certainly discouraged by the Code of Ethics under its concept of avoiding "participation which would adversely affect the confidence of the people in the impartiality of their officials." (Section 21 (5))

This Commission, then, would point out that the decision to accept an account from a firm or person who has recently received a favorable ruling from an official should be weighed most carefully in light of its potential for appearance of "conflict of interest." And the official must be willing to live with the judgement of the public and/or press that may accrue to him as a result of accepting a new account under these circumstances.

January 12, 1976.