

THE VOICE OF ETHICS

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Delicious autumn! My very soul is wedded to it, and if I were a bird, I would fly about the earth seeking the successive autumns.

- George Eliot

Stimulus Funds and the Ethics Law

Both the federal and state government have begun releasing stimulus funds to local Ohio communities. In its duties, the Ethics Commission strives to ensure that public monies are spent consistent with statutory standards of conduct which protect against potential conflicts of interest. The Ohio Ethics Commission is alerting public officials that state Ethics Laws apply to those who direct the expenditures of these funds.

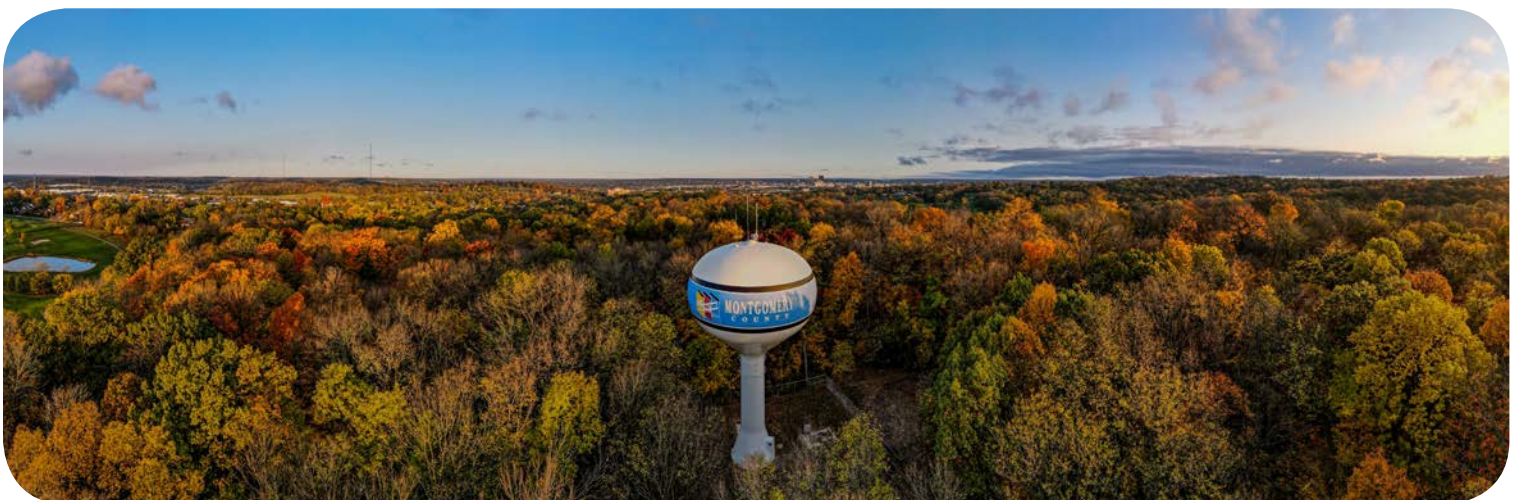
Stimulus funds and grants, such as the American Rescue Plan Act of 2021, intended to combat the COVID-19 pandemic, and a stimulus bill recently signed by Governor Mike DeWine to make a \$500 million investment into Appalachian communities in 32 Ohio counties, are public funds. In that context, the Ethics Commission is cautioning state and local officials that long-standing conflict of interest laws must be observed.

“The Ohio Ethics Law protects the public by prohibiting those in public service from directing or influencing government processes to benefit their private interests,” stated Executive Director Paul M. Nick.

Because the Commission has advised that stimulus funds are public funds, it is important to note that the same standards of conduct apply any time a state or local governmental agency buys or receives any goods or services. All public officials and employees involved with spending these monies must avoid acting on conflicts of interest.

“The Ethics Law assures Ohioans that government decisions and public expenditures, whether at the state or local level, are objective and serve the public’s interest,” added Commission Chairman Merom Brachman.

[Advisory Opinion 2009-06](#) addresses these issues in more detail, including their applicability to vendors.



Ethical Violations Through History

By Guest Columnist Isaiah Tanenbaum



Ethics Laws! The criminal statutes we spend so much time talking about in these pages, and what helps keep public servants' official duties separate from their private interests. You might think such a fine and important statute is as venerable as the country itself, perhaps even older, but in fact is not. This begs the question, "What did public servants do before ethics laws?"

Well, most of them worked hard and honestly at their jobs and then went home to tend to their private lives, just as most public servants do today. But a few, unencumbered by today's ethics restrictions, were able to harness their public positions to accumulate eye-watering levels of personal wealth and power. In this article, we'll look at a few of those Titans of Un-Ethics and examine how today's law would treat their shenanigans.

Marcus Licinus Crassus

Imagine you own a building in ancient Rome. You're hanging out in your toga, being fed a quiet after-dinner snack of wine and figs, when you smell something burning. You look up and see smoke billowing out of your kitchen and flames licking up the wood-and plaster walls. Your house is on fire! Rushing out onto the street, you shout for Rome's Fire Brigade to save your home. Within minutes, as many as 500 men in heavy tunics and hobnailed sandals are at your doorstep with buckets of water and sand, led by Fire Chief Marcus Licinus Crassus.

Only instead of directing them to douse the blaze, Crassus offers to buy your property. Hesitate, and his offer decreases as more of your building is destroyed. Agree, and it will be Crassus's newest real estate acquisition to be saved by the brigade. You're left with whatever he paid you - a fraction of the home's market value - and after he rebuilds, he can re-sell or rent



it out (quite possibly, to you!).

It's a profitable scheme - a classic fire sale, if you will - and in this way Crassus became the richest man in Rome, with a level of wealth so staggering that he parlayed it into a position as Co-Emperor with Pompey and Julius Caesar. Later, he would lead Parthians; legend has it that when he was defeated and captured in the Battle of Carrhae, they chopped off his head and filled it with molten gold.

If Roman law had some sort of ethics law, Crassus would have been prohibited from engaging in business dealings with members of the public with whom he interacted in his official capacity - we call this sort of thing "Misuse of Position." Bad news for Crassus's real estate ambitions though at least in Ohio, while violations of the Ethics Law are criminal behavior, they are not met with brutal (if poetic) molten justice.

Heshen

An ambitious and affable bodyguard in Qing dynasty China, Heshen managed to catch the aging Emperor's ear and affections. Within a year, he had shot to the very top of the imperial power structure, serving as Grand Councilor for the next quarter century. Along the way, he was placed in charge of the empire's entire revenue stream as well as its personnel recruitment system, and his son was married to the emperor's youngest and favorite daughter.

When a rebellion broke out in 1796, Heshen made sure his cronies were put in charge of the military response. They conspired to prolong the empire's efforts to suppress the rebellion, while steering many of the funds intended for the campaign into their own (and Heshen's) pockets. In all, Heshen amassed a personal fortune in silver and treasure equivalent to \$270 billion in today's money.

In 1799, the emperor died and was replaced by a new one, who, after a brief trial, confiscated Heshen's ill-gotten wealth and ordered his death. New generals were appointed, putting an end to the still-simmering rebellion. However, the damage was done. Many historians see Heshen's mismanagement as the start of a century-long decline that ended the Qing dynasty and, with it, the empire itself. In China today, Heshen is remembered as the prototypical corrupt official and shows up as a stock character in stories, plays, and films, usually to steal and take bribes and generally be evil.

Heshen's acts were over the line even in his era, but one thing that kept him safe from reprisal for so long was his son's marriage to the emperor's daughter. The Ohio Ethics Law prohibits public officials and employees from hiring or directly supervising their close family members for good reason: it's hard (if not impossible) to be an unbiased regarding one's own family. Even if someone believes they could objectively hire or supervise a family member, it is illegal under the Ohio Ethics Law.



Donald Manes

Donald Manes, the well-connected boss of the Queens Democratic Party machine, served as that borough's president from the 1970s through the mid-80s. In that time, he used a combination of official power and party influence to install two of his buddies as Director and Deputy Director of the City's Parking Violations Bureau (PVB), effectively taking control of the agency. The three of them then spent the next decade taking hundreds of thousands of dollars' worth of kickbacks from vendors vying for lucrative City contracts, often in the form of envelopes of cash literally passed to them under tables in seedy restaurants.

When news of these bribes broke, and with one of the friends cooperating with the feds, Manes resigned in disgrace. Two months later, while on the phone with his psychiatrist, he died by suicide.

The PVB scandal did not make Manes "ruler of an empire" wealthy, but by the end of the decade it had given rise to two important and enduring New York City institutions. First, the events were (very loosely) fictionalized in the pilot episode of *Law & Order*, which went on to air for twenty seasons and was re-launched earlier this year. Second, when the New York City Charter was being overhauled in 1988, public outcry over the PVB (and other scandals) increased the appetite for ethics reform. A previous board of ethics was replaced by a new, independent agency with enforcement powers which significantly expanded the scope of the NYC's ethics law.



Conclusion



Just as passing a law that criminalizes theft doesn't mean that burglary is impossible, no ethics law can fully prevent the minority of less-than-honorable public servants from using their public positions for private gain. When that happens, though, an independent agency with enforcement powers is indispensable.

The rest of the time, a good ethics law serves to guide diligent public servants, preserving everyone's faith and understanding in a public sector that serves the people. If questions about the Ohio Ethics Law should ever arise, public employees and officials from both state and local government are invited to visit [our website](#) or contact us at (614) 466-7090.

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