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ETHICS

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THE ADVISOR

MARCH 2011

COMMITTEE ISSUES TWO ADVISORY OPINIONS

ADVISORY OPINION 2011-01

Subject: Conflict of Interest—Legislation and Board Membership

RE: Limitations imposed upon a legislator when acting on behalf of a person or company in contract negotiations with the State of Alaska **and** possible conflicts of interest when a legislator acts as a director or officer of a company which might receive financial benefits from the passage of certain legislation.

FACTS: The legislator possesses some shares in Corporation A or its subsidiary but there is no evidence that the legislator has a controlling or majority interest in these companies. Shares owned are minimal in comparison to the number of shares outstanding and owned by other shareholders.

CONTRACT OR LEASE WITH THE STATE: The legislator should not be involved in negotiating, lobbying or signing a contract or lease with the state. If an award is made to Corporation A, the legislator is required to disclose "interest" per AS 24.60.040(a). In order to avoid even the perception of a conflict of interest, the committee recommends Corporation A sign a resolution indicating that the legislator will have no further involvement in the negotiating process and will not vote if this comes before the board.

LEGISLATION: The committee did not find an actual conflict existed as defined under the Legislative Ethics Act, and there did not appear to be an apparent conflict of interest in the promotion of legislation that would financially benefit companies of which the legislator is a director or officer with managerial oversight. The legislator does not have an equity or ownership interest in Corporation A sufficient to preclude the legislator from voting under AS 24.60.030(g). However, the committee suggested the legislator refrain from assisting or promoting in the passage of such legislation and notify the House Floor of the apparent conflict prior to any votes being cast.

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ADVISORY OPINION 2011-02

Subject: Conflict of Interest—Use of State Resources

RE: Does the Legislative Ethics Act permit a legislator to use legislative newsletters and press releases to acknowledge and thank for-profit businesses for donating goods and services to non-profit charitable organizations?

The Legislative Ethics Act permits a legislator to acknowledge and thank a for-profit business in a legislative newsletter or press release for donating goods and services to non-profit charitable organizations.

The acknowledgement and thanks...

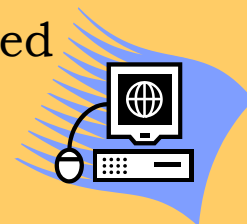
- 1) should be clearly identifiable as an acknowledgement and thanks;
- 2) should not endorse the business or its commercial products or services;
- 3) should not list contact information for the business; and
- 4) should not state or imply that the business, or its owners, or employees, support or oppose a partisan political activity, including a political campaign.

The committee distinguished between a communication that is identifiable on its face as nothing more than an acknowledgement and thanks, and one that is not; one that is not can too easily be perceived by the public as an endorsement of the business or its commercial services or products, regardless of the intentions of the legislator or legislative employee who publishes it. General praise of a for-profit business or its commercial products or services in a legislative newsletter is an implied endorsement. An endorsement of a for-profit business or its commercial products or services in a legislative newsletter, whether explicit or implied, is prohibited by AS 24.60.030(a)(2).

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If you have any questions, concerns or would like clarification on these advisory opinions, call the Ethics office at 269-0150

