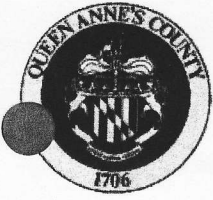


QUEEN ANNE'S COUNTY ETHICS COMMISSION



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Advisory Opinion Issued on May 20, 2008

A request that the Queen Anne's County Ethics Commission reconsider Advisory Opinions Number 07-13 and 07-20 is granted. Upon reconsideration, both opinions are reaffirmed to the extent that they decide and explain that the situation described therein does not constitute a violation of Section 8-11.A.(7) of the Queen Anne's County Public Ethics Law. The last sentence of Advisory Opinion Number 07-20, however -- which concluded that a request to decide whether the situation violated Section 8-11.A.(2) was moot -- is withdrawn.

By Advisory Opinion Number 07-13, dated September 17, 2007, the Ethics Commission concluded that there was not an appearance of a conflict of interest in an Ethics Commission member's private professional association with the law office of Counsel to the Commission. On November 19, 2007, the Commission was asked to reconsider that opinion. At its December 20, 2007, regular meeting, the Commission declined to reconsider and explained the rationale for this decision in Advisory Opinion Number 07-20, as follows: In context, Advisory Opinion Number 07-13 was limited to consideration and application of Section 8-11.A.(7) and did not consider Section 8-11.A.(2); and consideration in December 2007, three months later, of possible application of Section 8-11.A.(2) was moot in light of the subject individual's intervening resignation from the Commission.

Subsequently, the Commission again was asked to reconsider Advisory Opinion Number 07-13, as well as the conclusion of mootness in Advisory Opinion Number 07-20. At its regular meeting on May 20, 2008, the Commission voted to reconsider Advisory Opinions Number 07-13 and 07-20. As indicated above, upon reconsideration, the Commission reaffirmed both earlier opinions, except for the last sentence of Advisory Opinion Number 07-20, concerning mootness.

Mootness is a discretionary principle that may be applied by a decision-making body such as the Ethics Commission when the body considers that there is no live dispute to be resolved and no other over-riding purpose to be served by deciding the issue before it. On reconsideration, the Commission noted that the purposes of an advisory opinion include not only deciding a live issue before the Commission, but also to contribute to a body of decisional statutory construction that will guide those who are subject to the statute. In that light, the Commission decided that, in its discretion, it would not apply mootness and would decide the question whether, under the circumstances presented to the Commission in September 2007, the

situation constituted a conflict of interest under Section 8-11.A.(2).

In relevant part, Section 8-11.A.(2) precludes county board and commission members (including those of this Commission) from “[b]eing employed by or having a financial interest in an entity that is: . . . (b) doing business with that official or employee or with the governmental unit with which the official or employee is affiliated.” On its face, this provision appears to be one that is appropriate for consideration in the context of this case, and the Commission’s omission to consider it in Advisory Opinion Number 07-13 was an oversight.

In the Commission’s present consideration of this provision, in light of the facts of this case, the Commission concludes that a professional employment or independent-contractor relationship of a member of this Commission with the law firm of Counsel to this Commission violates Section 8-11.A.(2)(b). Such a relationship constitutes “[b]eing employed by or having a financial interest in an entity [Counsel’s law firm] that is . . . doing business . . . with the governmental unit with which the official . . . is affiliated [this Commission].

As noted earlier, the member of this Commission in question resigned from the Commission in the intervening time between our two prior advisory opinions. By the date of Advisory Opinion Number 07-20, that member had ceased participating in the business of this Commission. Accordingly, while the Commission now decides to exercise its discretion to decide application of Section 8-11.A.(2) rather than to rely on the principle of mootness, the individual’s resignation had resolved the conflict of interest as of the date of Advisory Opinion Number 07-20, and it remains resolved. No further curative action is required.

Advisory Opinion 08-12