

Ethics Quarterly

Selected Opinions of the Louisiana Board of Ethics

July 2006

2415 Quail Drive, Third Floor, Baton Rouge, Louisiana 70808
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On the web: www.ethics.state.la.us

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ETHICS

PROHIBITED TRANSACTIONS

Milton Fontenot, d/b/a Washington Citgo, violated Section 1113 of the Code of Governmental Ethics by selling products and services to the Town of Washington while his sister, Linda Gaspard, served as the Town clerk. A penalty of \$1,000 was assessed against Mr. Fontenot by the Board. §1113 **No. 2005-256**

Wes Spears, the son of Joan VanAernam, executive director of the DeQuincy Housing Authority, violated Section 1113A of the Code by providing compensated maintenance services to the Housing Authority while his mother served as its executive director. A penalty of \$500 was assessed against Mr. Spears. §1113A **No. 2005-279**

Allen H. Borne, Jr., a member of the Board of Commissioners for the Orleans Levee District, violated Section 1113B of the Code by maintaining a slip lease at the South Shore Harbor Marina. A penalty of \$1,000 was assessed against Mr. Borne, but \$800 of it was suspended based on his future compliance with the Code. §1113B **No. 2005-451**

Melvin Clay, a member of the Board of Commissioners for Acadia Parish's Fire District No. 3, violated Sections 1112A and 1113A of the Code by entering into and participating in a transaction under the supervision of his agency, Fire District No. 3. The violations occurred when Clay sold a used vehicle to the Fire District for \$10,000. Chief Clay agreed to resign from the Fire District's board and to return the \$10,000 purchase price of the vehicle, plus interest, to the Fire District. Also, a fine of \$1,000 was assessed against the Chief, \$500 of which was suspended based on his future compliance with the Code. §1112A; §1113A **No. 2005-511**

Although the Sewer Superintendent for the Village of Pioneer may not contract with the Village to install sewer pumps, the Village may raise his salary for performing the extra duties of installing the new pumps. §1113A **No. 2006-159**

An employee of the Northeast Louisiana War Veterans' Home may not take, for his personal use, an unused utility pole which was donated to the Veterans' Home. §1113A **No. 2006-221**

An employee of the Department of Culture, Recreation, and Tourism's Office of State Parks may be appointed to the West Feliciana Parish Tourist Commission since the appointment would not be made by his agency, the Office of State Parks. §1113A **No. 2006-237**

A state representative may sell property to the East Baton Rouge Housing Authority in connection with the "Hope IV" program, since housing authorities are not agencies of the state, but are instead autonomous units of local government. However, the representative must disclose the net income, prior to taxation, received from the sale of the property to the Housing Authority on her annual financial disclosure statement. §1113D; §1114.1; BD No. 2005-376 **No. 2006-271**

The son-in-law of a potential candidate for the Vernon Parish School Board may not continue to sell insurance to the School Board if his father-in-law is elected to that body. §1111C(2)(d); §1113 **No. 2006-343**

PARTICIPATION

Dr. Toya Barnes-Teamer, Vice Chancellor of District 1 of the Louisiana Technical College, violated Section 1112B(1) of the Code by virtue of the employment of her brother, Darrin Barnes, as an instructor at campuses within District 1 while she served as District 1's Vice Chancellor. Also, Darrin Barnes violated Section 1119A when he accepted a job with District 1. Individual penalties of \$5,000 were levied against Dr. Barnes-Teamer and Mr. Barnes, with \$2,500 of each penalty being suspended based on their future compliance with the Code. §1119A **No. 2005-125**

NEPOTISM

Violations of Section 1119 of the Code occurred by virtue of the employment of the following immediate family members of Chief Floyd Sanchez of the St. Gabriel Fire Department: Tonya LeBlanc, the daughter of Chief Sanchez; Brian Chambers, Chief Sanchez's son-in-law;

Brandy Duncan, another daughter of Chief Sanchez; and Gene Duncan, the son-in-law of Chief Sanchez. In each of the four cases, the Board levied penalties of \$1,000, but suspended \$500 of those totals conditioned upon the respondents' future compliance with the Code. §1119 **No. 2005-038**

Mark Hebert, a member of the St. Martin Parish School Board, violated Section 1119B(2)(a)(iii) of the Code by failing to file annual disclosure statements with the Board disclosing the employment of his brother, Michael Hebert, with the St. Martin School Board for the school years 2003-04 and 2004-05. A fine of \$500 was levied against Mark Hebert, but it was suspended based on his future compliance with the Code. §1119B(a)(iii) **No. 2005-561**

The brother of a member of the St. Martin Parish School Board may be promoted to the position of "Special Services Facilitator/Coordinator" since the promotion would be a normal advancement for that individual, and he has been working for the School Board since 1996, seven years before his brother joined the School Board. The School Board member, however, must recuse himself from participating in any promotional decisions involving his brother, in addition to any transactions in which his brother has a substantial economic interest. §1112B(1); §1119C(2); §1120 **No. 2006-154**

The son of an alderman for the City of Ville Platte may be employed by the Ville Platte Police Department, since the Department and the City are two different agencies; the Police Department is run by an elected chief, and has its own budget, which is separate from that of the City. §1119B **No. 2006-342**

OUTSIDE SERVICES & ACTIVITIES

Jody Soileau, a member of the Mamou Board of Aldermen, violated Section 1111C(2)(d) by virtue of his employment with Columbia HCA, the company which operates Mamou's Savoy Medical Center, at a time when Columbia HCA had a lease with his agency, the Town of Mamou. Mr. Soileau was assessed a fine of \$1,000. §1111C(2)(d) **No. 2004-528**

Curtis Roller, Chief of Jackson Parish's Ward 4 Fire District, violated Sections 1111C(2)(d), 1112, and 1113A of the Code when he received income from F&F Supply Co., Inc. while that company had a business relationship with the Fire District and by ordering products from F&F Supply for the Fire District and acting as the salesperson for F&F Supply on those transactions. Chief Roller agreed to pay a penalty of \$5,000, and he resigned from his position with F&F Supply. §1111C(2)(d); §1112; §1113A **No. 2005-392**

A member of the Board of Commissioners for the Terrebonne Parish Levee District and his company may

not perform subcontract work for general contractors awarded bids by the Levee District since he owns more than 25% of and exercises control over his business. §1111C(2)(d) **No. 2006-116**

A child welfare worker for the Office of Community Services may not work for the Volunteers of America, since the VOA has a contractual relationship with the Office of Community Services. §1111C(2)(d) **No. 2006-120**

An employee of the Department of Wildlife and Fisheries (DWF) may contract to teach audio and video surveillance practices to United States Department of Defense employees for a company called Technical Surveillance Sciences, Inc., since the DWF does not have a financial relationship with Technical Surveillance Sciences and the employee does not perform similar services in his job with the DWF. §1111C(2)(d) **No. 2006-122**

The Constable of Ouchita Parish's Ward 8 may also work as a private process server, as long as he does not serve papers which are ordered by the Ward 8 Justice of the Peace Court in his private capacity. §1111A; §1111C(1)(a) **No. 2006-236**

The Deputy General Counsel for the Department of Environmental Quality's Legal Affairs Division may not be hired to teach a course for the LSU Continuing Education Division's Paralegal Studies Program, since the subject matter of the course is substantially related to the activities, programs, and operations of her public employment with the Department of Environmental Quality. §1111C(1)(a) **No. 2006-272**

POST EMPLOYMENT

A former staff attorney for the Department of Revenue's Legal Division/Corporate Income & Franchise Tax division may assist persons in transactions with the Department of Revenue, as long as he was not involved with such transactions during his public employment. Also, the Board ruled that the former employee may not, for a period of two years, assist persons in transactions with the Department of Revenue in which he participated. §1121B **No. 2006-103**

The Chief of Police of the Town of New Llano may accept a position on the Town's maintenance crew following the termination of his position as Police Chief since he will not be providing services pursuant to a contract. §1121A **No. 2006-141**

An employee of the St. Bernard Parish Office of Motor Vehicles ("OMV") is prohibited, for a period of two years following the termination of her public employment, from opening a tag agency in which she would be working in connection with the OMV to offer registration and license plate removal and issuance services, since she provided the same services at the OMV. §1121B **No. 2006-206**

A former engineer intern with the Port of New Orleans is prohibited, for a period of two years following the end of his public employment, from assisting his new employer in transactions involving projects in which he participated while working for the Port of New Orleans. §1121B **No. 2006-238**

UNIQUE CIRCUMSTANCES

No violations of the Code are presented if the Mayor of Denham Springs leases property to a tenant who receives Section 8 housing assistance. **No. 2006-102**

An assistant principal in the East Baton Rouge Parish School System may serve as the local president of the National Association for the Advancement of Colored People ("NAACP") since the assistant principal's agency is his own school, and the NAACP does not have a financial or other relationship with that school, and because he would not receive any compensation as the president of the NAACP in Baton Rouge. §1112B(3); §1123(1) **No. 2006-234**

A Bogalusa city councilman, who worked as an independent contractor in the aftermath of the 2005 hurricanes, is required to file a disclosure pursuant to Section 1114.3 of the Code since the services he actually provided were hurricane debris removal and his employment as an independent contractor was directly related to a disaster or emergency declared by the governor and were reimbursed by federal funds. §1114.3 **No. 2006-334**

CAMPAIGN FINANCE

Scott Sledge, an unsuccessful candidate for 21st Judicial District Court Judge in the April 2, 2005 election, violated Section 1505.1C of the Campaign Finance Disclosure Act ("CFDA") when he failed to disclose the receipt of an in-kind donation from the law firm of Rolling, Perrilloux, Sledge, & Johnson. A penalty of \$200 was assessed against Mr. Sledge. LSA R.S. 18:15051C **No. 2005-333**

No violations of the CFDA are presented if the Bossier Parish Republican Executive Committee shares office space with the Caddo Parish Executive Committee and the Caddo Executive Committee pays its proportionate share of the rental fees for the office space from its contributions. **No. 2006-194**

No violations of the CFDA would occur if two political action committees, the Louisiana Bankers Association and the Community Bankers Association of Louisiana, merge. However, contribution limits with respect to contributions made to the two PACs, as well as those contributions made to candidates by the PACs, are aggregated. LSA R.S. 18:1505.2H **No. 2006-326**

DEADLINES & REMINDERS

Candidates and Political Committees

The reporting deadlines for candidates and political committees participating in the September 30, 2006 are as follows:

30-P August 31, 2006
10-P September 20, 2006
EDE-P October 10, 2006
10-G October 30, 2006

Reporting forms may be downloaded at www.ethics.state.la.us.

Campaign Finance Seminars - Dos and Don'ts of Campaign Finance Law and Reporting Requirements - will be scheduled in late August - check the website www.ethics.state.la.us for additional information.

Lobbyists

Expenditure reports for **both Executive branch and Legislative branch lobbyists** disclosing lobbying expenditures made **January 1, 2006 through June 30, 2006** are due by **August 15, 2006**. Appropriate forms may be downloaded from the Board's website. Please be aware that there are separate and distinct forms for each lobbying program. Make sure you complete and submit the correct form to avoid delays in the processing of your report. Incomplete forms may be subject to late fees. If you have questions as to which form to use, please contact the Lobbying Program at (225) 763-8777 or 1-800-842-6630.

School Board Disclosure Statements

School Board Disclosure Statements for the 2006-2007 school year are due **within 30 days of the beginning of each school year** that you have an immediate family member employed by the school board.

ADDITIONAL INFORMATION

If you would like to schedule a **free** seminar about the Code of Governmental Ethics, the Campaign Finance Disclosure Act, or the Lobbyist Disclosure Act, please contact Melissa M. McConnell at (225) 763-8777 or 1-800-842-6630.

If you would like to request an advisory opinion from the Board of Ethics, regarding a particular ethical concern you may encounter, send your request, signed and in writing, to the Louisiana State Board of Ethics, 2415 Quail Drive, Third Floor, Baton Rouge, Louisiana, 70808.

Please visit our website at www.ethics.state.la.us to subscribe to our electronic notification procedure.

Subscribers receive notification via email of the Board's monthly agenda and opinions and charges issued following the Board meeting.

Please note that the advisory opinions rendered by the Board of Ethics are based upon the particular facts presented. As such, the scope of each opinion is limited to the parties and facts involved in each case. However, the opinions may serve as a general guide to other individuals similarly situated. You may always seek an advisory opinion specific to your situation by writing to the Board at:

**2415 Quail Drive, Third Floor
Baton Rouge, LA 70808**

*You may always seek **informal** advice from the staff attorneys for the Board. Call (225) 763-8777 or, toll free, 1-800-842-6630, Monday through Friday, 8:00 a.m. until 4:45 p.m., CST.*

Ethics Quarterly is produced and published by the Louisiana Ethics Administration to highlight selected cases addressed by the Louisiana Board of Ethics. Specific questions with regard to a particular situation or issue should be directed to the Ethics Administration's office at 2415 Quail Drive, Third Floor, Baton Rouge, Louisiana, 70808, or phone (225) 763-8777 or 1-800-842-6630. One hundred copies of this public document were published in this first printing at a cost of \$200.00. The total cost of this document, including reprints, is \$200.00. This material was printed in accordance with standards for printing by state agencies established pursuant to La. R.S. 43:31.



Louisiana Board of Ethics

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2006 ACTS IMPACTING THE CODE OF GOVERNMENTAL ETHICS

Act 85; effective 5/25/06 (HB 628 Rep. Montgomery)

Prohibits police jurors from serving as parish managers or as assistant parish managers. However, it allows those currently serving in those positions to continue to serve, provided they do not participate in any vote regarding their employment.

Act 89; effective 5/25/06 (HB 671 Rep. Downs)

Provides an exception to allow a former member of the North Louisiana Exhibition Center Commission to be employed by the commission subsequent to the termination of his service as a member of the commission. The exception is repealed as of August 1, 2008.

Act 334; effective 7/1/2006 (HB 130 Rep. Lancaster)

Removes from the nominating committee for the nominees for positions on the Board of Ethics the dean of H. Sophie Newcomb College.

Act 338; effective 6/30/2006 (HB 197 Rep. Lancaster)

Re-creates the Department of Civil Service and all entities that made a part of the department, which includes the Ethics Administration Program.

Act 373; effective 6/15/06 (HB 311 Rep. Bruneau)

Provides that the agency head of a public employee referred to investigation for a potential violation of Section 1169 of the Code of Governmental Ethics (which provides that public employees shall not be subjected to acts of reprisal/retaliation for reporting violations of law or alleged acts of impropriety) shall receive notice of the investigation and is made an indispensable party. Furthermore, on receipt of notification that the employee has commenced a civil action in a district or federal court or with a federal agency with adjudicatory authority, the Board of Ethics shall stay any action pending before the Board and that any ruling in that matter shall resolve all matters pending before the Board.

Act 408; effective 8/15/06 (HB 977 Rep. Cazayoux)

Provides that the definition of "substantial economic interest" in the Code of Governmental Ethics shall not include the interest that an elected official has in a position or office of the house, body, or authority to which he is elected, which is required to be filled by a member of that house, body or authority by law, legislative rule, or home rule charter.

Act 412; effective 6/16/06 (HB 1016 Rep. Cazayoux & LaFleur)

Amends the statute requiring elected officials, state appointed officials and members of their immediate families to file disclosure statements if they have contracts or subcontracts, which value exceeds \$2,500. The disclosures must be filed no later than thirty days after the contract is entered. All persons required to file such statements, including legislators, must file such disclosures with the Board of Ethics.

Act 422; effective 6/16/06 (HB 1205 Reps. St. Germain and Burns)

Amends the amount that a public employee can receive from certain not-for-profit organizations for the purpose of disaster aid or relief to offset economic losses suffered from the hurricanes to \$10,000 from any one organization, with a maximum amount of \$25,000 received in total.

Act 496, eff. 6/22/06 (HB 1203 Rep. LaFleur)

Excludes from the definition of "thing of economic value" pharmaceutical samples, medical devices, medical foods, and infant formulas which are provided to physicians, health care professionals, or appropriate public employees for the administration or dispensation to a patient at no cost to the patient.

Act 517; effective 6/22/06 (SB 210 Sen. Jones)

Allows an attorney who is a public employee to receive up to \$3,000 per year to be credited against his qualified student loan debt from a bona fide Loan Repayment Assistance Program administered by any law school.

Act 525; effective 8/15/06 (SB 307 Sen. Jones)

Prohibits a former public employee, for the two year period after the termination of his public employment, from rendering any service which the former public employee rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to or for, or on behalf of the agency with which he was formerly employed.

Act 607; effective 8/15/06 (SB 541 Sen. Ullo)

Allows a former employee of the Louisiana School for the Deaf to provide sign language and interpreting services on a contractual basis for the school.

2006 ACTS IMPACTING THE CAMPAIGN FINANCE DISCLOSURE ACT

Act 7; effective 8/15/06 (SB 83 Sen. Jones)

Reduces from six to three years the required time the Board of Ethics must retain campaign finance disclosure reports. After three years, the reports are sent to the Secretary of State's office for archiving.

Act 128; effective 6/2/06 (SB 646 Sen. Murray)

Prohibits a candidate for the office of insurance commissioner from accepting a campaign contribution/loan/in-kind contribution from any service provider who has contracted with the Louisiana Citizens Property Insurance Corporation and which service provider subcontracts with insurance adjusters to adjust claims for the Louisiana Citizens Property Insurance Corporation. Any contribution received from such person on or after January 1, 2006, must be returned to the contributor by the candidate.

2006 ACTS IMPACTING THE LEGISLATIVE LOBBYIST DISCLOSURE ACT

Act 368 effective 6/15/06 (HB 83 Rep. Bruneau)

Amends the definition of "lobbyist" to include any person employed or engaged for compensation to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the duties of such employment or engagement, even if no expenditures are made. Also, provides that no person shall enter into a contract to act in a representative capacity for the purpose of lobbying and fail to register as a lobbyist. If a person is required to register as a lobbyist and fails to do so, this constitutes a misrepresentation that will void the contract and the Board of Ethics shall order such contract void.

2006 ACTS IMPACTING THE EXECUTIVE LOBBYIST DISCLOSURE ACT

Act 527; effective 6/22/06 (SB 320 Sen. Hines and Rep. Salter)

Provides that the definition of "executive branch action" shall not include any act by a licensed healthcare professional, or person acting under his direction, to diagnose, treat, or provide medical advice to an individual patient, including prescribing a drug or device for use by the patient. Included in the definition of "executive branch action" is any action by the Medicaid Pharmaceutical and Therapeutics Committee.