



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 85-101

April 8, 1985

Mr. William Clay Brazil
Prosecuting Attorney
1005 Front Street
Conway, Arkansas 72032

Dear Mr. Brazil:

You have requested an opinion from our office on the following question:

Does the election to the Faulkner County Quorum Court of a Vice President in charge of sales or another officer of Riggs Tractor Company, preclude the County from continuing to do business with this company?

The answer to your question is governed by Ark. Stat. Ann. §17-4208(3) (1980) which provides, inter alia, that "No officer or employee of county government shall: (a) be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county" (Emphasis Added).

Although we are aware of no Arkansas case which defines an "indirect interest", this type of "conflict of interest" statute is common throughout the United States. In United States v. Mississippi Valley Generating Co., 364 U.S. 520 (1961), the Supreme Court was called upon to interpret a federal provision prohibiting any direct or indirect interest in government contracts by government agents. The Court said, "The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. . . . It attempts to prevent honest government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation." Id at 549-50. We think this interpretation best serves the spirit of §17-4208, significantly entitled "Ethics for county officials and employees."

Furthermore, under Arkansas law,

"[T]he meaning of a statute must be determined from the natural and obvious import of the language used by the legislature without resorting to subtle and forced construction for the purpose of limiting or extending the meaning. * * * * It is our duty to construe a legislative enactment just as it reads."

City of North Little Rock v. Montgomery, 261 Ark. 16, 18, 546 S.W. 2d 154, 159 (1977) (Citing Black v. Cockrill, Judge, 247 Ark. 367, 389 S.W. 2d 881 (1965)).

33
Mr. William Clay Brazil
April 8, 1985
Page 2

The word "indirectly" was defined in Cahen Trust v. United States, 292 F.2d 33, 36 (1961) as "roundabout; . . . not resulting directly from an act or cause but more or less remotely connected with or growing out of it." (Quoting Webster's New International Dictionary.)

Also important to the natural and obvious import of the language used is the breadth of the prohibition, there being no delineated exceptions as in other Arkansas statutes. Compare Ark. Stat. Ann. §19-909 (Supp. 1983).

Accordingly, we conclude that §17-4208 is broad enough to encompass the situation where a Quorum Court member is an officer of a private business enterprise and that a conflict of interest, barring further business with the enterprise, does exist.

The foregoing opinion, which I hereby approve, was prepared by
Chief Deputy Attorney General Rodney Parham.

Yours truly,


STEVE CLARK
Attorney General

SC:RP:lm

3