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ETHICS ADVISORY OPINION NO. 26-001-E

February 6, 2026

Question Presented: May a county supervisor vote to approve the payment of claims which will not benefit his employer but may benefit a related company?

Brief Answer: Based upon the particular facts provided, the supervisor will not have a prohibited interest in the fuel purchases as proscribed in Section 109, Miss. Const. of 1890, and Section 25-4-105(2), Miss. Code of 1972. Nor will the supervisor's employer be a vendor to the county as prohibited in Section 25-4-105(3)(a). Moreover, the supervisor's employer will not receive a pecuniary benefit as restricted under Section 25-4-105(1). Nevertheless, the supervisor should recuse himself from approval of fuel claims to avoid any appearance of impropriety.

The Mississippi Ethics Commission issued this opinion on the date shown above in accordance with Section 25-4-17(i), Mississippi Code of 1972, as reflected upon its minutes of even date. The Commission is empowered to interpret and opine only upon Article IV, Section 109, Mississippi Constitution of 1890, and Article 3, Chapter 4, Title 25, Mississippi Code of 1972. This opinion does not interpret or offer protection from liability for any other laws, rules or regulations. The Commission based this opinion solely on the facts and circumstances provided by the requestor as restated herein. The protection from liability provided under Section 25-4-17(i) is limited to the individual who requested this opinion and to the accuracy and completeness of these facts.

I. LAW

The pertinent Ethics in Government Laws to be considered here are as follows:

Section 109, Miss. Const. of 1890.

No public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city, or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member, during the term for which he shall have been chosen, or within one year after the expiration of such term.

Section 25-4-101, Miss. Code of 1972.

The legislature declares that elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust. Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments.

Section 25-4-103, Miss. Code of 1972.

(c) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint stock company, receivership, trust or other legal entity or undertaking organized for economic gain, a nonprofit corporation or other such entity, association or organization receiving public funds.

(d) "Business with which he is associated" means any business of which a public servant or his relative is an officer, director, owner, partner, employee or is a holder of more than ten percent (10%) of the fair market value or from which he or his relative derives more than Two Thousand Five Hundred Dollars (\$2,500.00) in annual income or over which such public servant or his relative exercises control.

(f) "Contract" means:

(i) Any agreement to which the government is a party; or

(ii) Any agreement on behalf of the government which involves the payment of public funds.

(g) "Government" means the state and all political entities thereof, both collectively and separately, including but not limited to:

(i) Counties;

(ii) Municipalities;

(iii) All school districts;

(iv) All courts; and

(v) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or executive order including all units that expend public funds.

(h) “Governmental entity” means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.

(k) “Material financial interest” means a personal and pecuniary interest, direct or indirect, accruing to a public servant or spouse, either individually or in combination with each other. Notwithstanding the foregoing, the following shall not be deemed to be a material financial interest with respect to a business with which a public servant may be associated:

(i) Ownership of any interest of less than ten percent (10%) in a business where the aggregate annual net income to the public servant therefrom is less than One Thousand Dollars (\$1,000.00);

(ii) Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$5,000.00);

(iii) The income as an employee of a relative if neither the public servant or relative is an officer, director or partner in the business and any ownership interest would not be deemed material pursuant to subparagraph (i) or (ii) herein; or

(iv) The income of the spouse of a public servant when such spouse is a contractor, subcontractor or vendor with the governmental entity that employs the public servant and the public servant exercises no control, direct or indirect, over the contract between the spouse and such governmental entity.

(l) “Pecuniary benefit” means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants shall not be deemed a pecuniary benefit.

(p) “Public servant” means:

(i) Any elected or appointed official of the government;

(ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity

created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or

(iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

Section 25-4-105, Miss. Code of 1972.

(1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.

(3) No public servant shall:

(a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.

II. FACTS

Facts provided by the requestor are set forth below, with identifying information redacted, and are considered a part of this opinion.

On behalf of [a] County Supervisor [...], I am writing to request an advisory opinion pursuant to Miss. Code Ann. § 25-4-17(i)(i).

In Advisory Opinion No. 09-092-E (October 9, 2009), the Ethics Commission declared that then-Alderman [...] did not have a prohibited interest in certain fuel purchases in violation of Section 109, MS Const. of 1890, or Miss. Code Ann. § 25-4-105(1), (2) or (3). While the Commission did not mandate recusal, it recommended that [the Alderman] recuse himself from approval of fuel claims to avoid any appearance of impropriety, and he has done so, continually, even into his current position and tenure as [a member of the Board of Supervisors].

[The Supervisor] is employed by [LLC 1, which] pays 100% of his salary. He receives no bonus or commission or other remuneration based on or related to fuel sales. [LLC 1] contracts with [Corporation Y] to operate inside store sales. [LLC 1] is responsible for the inside sales, i.e., the convenience store. [Corporation Y] owns or leases gasoline/convenience stores in the ... area, including in the county where [the Supervisor] serves as supervisor. [Corporation Y] owns all the motor fuel and all the proceeds from sales at its gas stations. [LLC 1] is paid by a formula solely for performance of its duties as an independent contractor. [The Supervisor] has no interest beyond his salary from [LLC 1], e.g., no ownership interest in either company. [LLC 1 and Corporation Y] have common ownership.

In the normal course of county business, fuel is often purchased by county employees using a Fuelman credit card. [Corporation Y] contracts with Fleetcor, doing business as Fuelman. [LLC 1], [the Supervisor's] employer, does not have a contract with Fleetcor or Fuelman and receives no payment from them. [The Supervisor] is not employed by [Corporation Y] and receives no financial or pecuniary benefit from [Corporation Y].

Fuelman purchases are paid through Fleetcor invoices approved on the county's claims docket. [The Supervisor] usually recuses himself from voting on any Fuelman claims, per the recommendation of the above-referenced ethics opinion. Fuelman credit cards can only be used to purchase fuel and cannot be used for any inside sales, i.e., convenience store purchases.

Under the set of facts as enumerated above my question is:

Does [the Supervisor] have any prohibited interest in fuel purchases made by county employees at convenience stores owned by [Corporation Y]?

If possible, please consider this request on an expedited basis.

III. ANALYSIS

The facts provided above are, on all relevant points, consistent with the facts in [Advisory Opinion No. 09-092-E](#), which was issued to the supervisor in question. As the facts are the same, the conclusions are also the same as in the prior opinion.

Section 109, Miss. Const. of 1890, and its statutory parallel, Section 25-4-105(2), Miss. Code of 1972, prohibit a member of a public board from having any direct or indirect interest in a contract with the government which is funded or otherwise authorized by that board during his or her term or for one year thereafter. *Frazier v. State, ex rel. Pittman*, 504 So.2d 675, 693 (Miss. 1987). A board member's private sector employment may create a prohibited interest in purchases or other contracts between his or her employer and the board. These statutes can also prohibit a county supervisor from having an interest in indirect transactions between his employer and the county, such as a subcontractor or wholesaler relationship.

Here the county is not purchasing from the supervisor's employer but from another company which shares common ownership with the supervisor's employer. Moreover, the fuel purchases are made indirectly through the Fuelman fleet management system. The facts provided indicate neither the supervisor nor his employer will benefit from these purchases. Therefore, the supervisor has no prohibited interest in these fuel purchases, and he will not violate Section 109 and Section 25-4-105(2) if the county continues to purchase fuel indirectly from Corporation Y through the Fuelman system. The commission notes the facts presented in this opinion are fundamentally different from those in Advisory Opinions No. 05-088-E and 17-061-E.

Section 25-4-105(3)(a) will prohibit the supervisor's employer from being a vendor to the county, subject to some narrow exceptions contained in Section 25-4-105(4). Based on the facts provided, the supervisor's employer is not a vendor to the county. Again, a related but separate business entity is selling fuel to the county but not the supervisor's employer.

Pursuant to Section 25-4-105(1), above, the supervisor may not use his position to obtain or attempt to obtain a monetary benefit for a "business with which he is associated," such as his employer, LLC 1. Some claims paid by the board of supervisors to Fleetcor Technologies, Inc., d/b/a Fuelman, will result in a benefit to Corporation Y. But the facts provided indicate no benefit will inure to the supervisor's employer, LLC 1. Thus, the supervisor will not violate Section 25-4-105(1) if he votes to pay those claims.

Nevertheless, the supervisor should consider the public policy pronouncement codified in Section 25-4-101. Public servants should conduct themselves in a manner which enhances the public trust in government and avoid actions which may tend to create public suspicion regarding the honesty and integrity of those in government. The facts provided above are relatively complicated and show the supervisor's employer, LLC 1, and the fuel vendor, Corporation Y, have some common ownership. Those business connections could create suspicion or confusion that the supervisor is violating the public trust if he participates in approving claims for fuel purchases. Consequently, the commission recommends the supervisor recuse himself from approving the payment of fuel purchases to avoid any appearance of impropriety.

A total and complete recusal requires the supervisor leave the meeting room before the matter comes up for discussion and remain absent until the vote is concluded. The supervisor must not only avoid debating, discussing or taking action on the subject matter during official meetings or deliberations but must also avoid discussing the subject matter with other county officials or employees. This restriction includes casual comments, as well as detailed discussions, made in person, by telephone or by any other means. An abstention is considered a vote with the majority and is *not* a recusal. Furthermore, any minutes or other record of the meeting or other proceeding should state the recusing supervisor left the room before the matter came before the board and did not return until after the vote.

MISSISSIPPI ETHICS COMMISSION

BY: _____

Tom Hood, Executive Director and
Chief Counsel