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January 12, 2000

**ADVISORY OPINION NO. 2000-02**

Jerry Key  
Police Officer  
City of Huntsville  
128 Hazel Trace  
Hazel Green, Alabama 35750

Conflict Of Interests/Police Officer  
Performing Accident Reconstruction  
Services For Law Firms And Insurance  
Companies.

A police officer with the City of Huntsville may perform accident reconstruction services for law firms and insurance companies; provided, he not use any City of Huntsville equipment, facilities, time, materials, human labor or other City property under his discretion or control to assist him in performing the accident reconstruction services or in obtaining the opportunities; that he not perform accident reconstruction services within the City of Huntsville or the City's police jurisdiction; and further, that he provide no accident reconstruction services on any matters involving the City of Huntsville or the Huntsville Police Department.

Dear Mr. Key:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

**QUESTION PRESENTED**

May a police officer with the City of Huntsville perform accident reconstruction services for law firms and insurance companies on his own time?

**FACTS AND ANALYSIS**

The facts as have been presented to this Commission are as follows:

Jerry Key is a police officer with the City of Huntsville. He has just completed courses and has become certified in accident reconstruction. These courses were paid for by himself.

Based on an in-service class Mr. Key attended in Huntsville, he poses this question to the Commission.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-2(b) in pertinent part states:

“An essential principle underlying the staffing of our governmental structure is that its public officials and public employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided.”

Section 36-25-1(8) defines a conflict of interest as:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.”

Section 36-25-1(23) defines a public employee as:

"(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental

corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

Section 36-25-1(2) defines a business with which the person is associated as:

"(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED. Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(c) states:

"(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy."

While Mr. Key has added several conditions to himself that would not necessarily be required by the Ethics Commission, he may perform accident reconstruction services for law firms and insurance companies within the following guidelines:

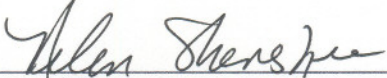
- 1) That he not use any City of Huntsville equipment, facilities, time, materials, human labor or other City property under his discretion or control to assist him in performing the accident reconstruction services or in obtaining the opportunities;
- 2) That he not perform accident reconstruction services within the City of Huntsville or the City's police jurisdiction; and further,
- 3) That he provide no accident reconstruction services on any matters involving the City of Huntsville or the Huntsville Police Department.

### CONCLUSION

A police officer with the City of Huntsville may perform accident reconstruction services for law firms and insurance companies; provided, he not use any City of Huntsville equipment, facilities, time, materials, human labor or other City property under his discretion or control to assist him in performing the accident reconstruction services or in obtaining the opportunities; that he not perform accident reconstruction services within the City of Huntsville or the City's police jurisdiction; and further, that he provide no accident reconstruction services on any matters involving the City of Huntsville or the Huntsville Police Department.

### AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on January 12, 2000.

  
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Helen Shores Lee  
Chair  
Alabama Ethics Commission