

STATE OF ALABAMA  
ETHICS COMMISSION



**COMMISSIONERS**

Russell Jackson Drake, Esq., Chairman  
J. Harold Sorrells, Vice-Chairman  
Raymond L. Bell, Jr., Esq.  
Linda L. Green  
Nancy Edwards Eldridge

**MAILING ADDRESS**

P.O. BOX 4840  
MONTGOMERY, AL  
36103-4840

**STREET ADDRESS**

RSA UNION  
100 NORTH UNION STREET  
SUITE 104  
MONTGOMERY, AL 36104

James L. Sumner, Jr.  
Director

TELEPHONE (334) 242-2997  
FAX (334) 242-0248  
WEB SITE [www.ethics.alalinc.net](http://www.ethics.alalinc.net)

October 2, 2002

**ADVISORY OPINION NO. 2002-44**

Mr. James Frank  
Commissioner  
Southwestern Athletic Conference  
1527 5<sup>th</sup> Avenue N., 3<sup>rd</sup> Floor  
Birmingham, Alabama 35203

Revolving Door/Former Member Of Alabama State University Board Of Trustees, Who Serves As Chairman Of The Board Of Directors And Is A Substantial Shareholder Of Alamerica Bank, Entering Into A Banking Relationship With The Southwestern Athletic Conference And Serving As Title Sponsor For The Southwestern Athletic Conference Football Championship.

A former member of the Alabama State University Board of Trustees, who serves as Chairman of the Board of Directors and is a substantial shareholder of Alamerica Bank, may enter into a banking relationship with the Southwestern Athletic Conference, and the Bank may sponsor the Southwestern Athletic Conference football championship, as his former relationship was with a member of the Southwestern Athletic Conference and not directly with the Southwestern Athletic Conference.

Dear Mr. Frank:

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.



### **QUESTIONS PRESENTED**

- 1) Would the Alabama Ethics Law be violated if the Southwestern Athletic Conference entered into a banking relationship with Alamerica Bank?
- 2) Would the Alabama Ethics Law be violated if Alamerica Bank served as title sponsor for the Southwestern Athletic Conference football championship game in December of 2002?

### **FACTS AND ANALYSIS**

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

James Frank is the Commissioner for the Southwestern Athletic Conference (SWAC). The SWAC is composed of ten member Universities, two of which, Alabama A & M University (AAMU) and Alabama State University (ASU), are located in the State of Alabama. Both AAMU and ASU, along with other member Universities, pay dues to the SWAC. The corporate headquarters for the SWAC is located in Birmingham, Alabama. The SWAC is interested in establishing a banking relationship with Alamerica Bank, which is also located in Birmingham. In addition, it is anticipated that Alamerica will serve as a title sponsor for the SWAC football championship game to be held in Birmingham in December of 2002.

Alamerica Bank was founded by Donald V. Watkins. Mr. Watkins served as Chairman of the Board of Directors and is a substantial shareholder of the Bank. Mr. Frank states that Mr. Watkins served as a member of the Board of Trustees for ASU for several years and resigned from that position in May of 2001. He is concerned as to whether or not the "Revolving Door" provisions contained in the Alabama Ethics Law would impact on SWAC entering into a banking relationship with Alamerica Bank, as well as seeking Alamerica Bank's sponsorship for the SWAC title game.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) defines a public official as:

"(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."



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 36-25-13(a) states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity."

Section 36-25-13(c) states:

"(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency."

The "Revolving Door" provisions were designed to prevent public officials and public employees from being in a position to benefit after they leave service with a public body, either through entering into a contractual relationship with that entity or representing clients back before that entity.

In the facts before the Commission, while Donald Watkins is a former member of the ASU Board of Trustees, any relationship he had with the Southwestern Athletic Conference, was through ASU's membership in the Athletic Conference. And while he would be prohibited for a period of two years from entering into a contractual relationship with Alabama State University, there is no such prohibition in him or his bank dealing with the Southwestern Athletic Conference.



Mr. James Frank  
Advisory Opinion No. 2002-44  
Page four

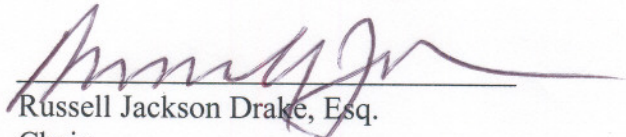
Based on the facts as provided and the above law, a former member of the Alabama State University Board of Trustees, who serves as Chairman of the Board of Directors and is a substantial shareholder of Alamerica Bank, may enter into a banking relationship with the Southwestern Athletic Conference, and the Bank may sponsor the Southwestern Athletic Conference football championship, as his former relationship was with a member of the Southwestern Athletic Conference and not directly with the Southwestern Athletic Conference.

### CONCLUSION

A former member of the Alabama State University Board of Trustees, who serves as Chairman of the Board of Directors and is a substantial shareholder of Alamerica Bank, may enter into a banking relationship with the Southwestern Athletic Conference, and the Bank may sponsor the Southwestern Athletic Conference football championship, as his former relationship was with a member of the Southwestern Athletic Conference and not directly with the Southwestern Athletic Conference.

### AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on October 2, 2002.

  
\_\_\_\_\_  
Russell Jackson Drake, Esq.  
Chair  
Alabama Ethics Commission