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March 5, 2003

ADVISORY OPINION NO. 2003-14

Ms. Winiferd N. Adams
Director
Chilton County Department of Human Resources
P. O. Box 1699
Clanton, Alabama 35046-1699

Conflict Of Interest/County Department Of
Human Resources Contracting With
Company Owned By Mother And Stepfather
Of Employee To Provide Services To The
Department

The Chilton County Department of Human Resources may contract with a company owned by the mother and stepfather of a social worker employed by the Department, as the social worker is considered a public employee under the Ethics Law, and the mother and stepfather are not considered family members of a public employee, and where the social worker has no financial interest of any type in the company, nor provides support to the mother and stepfather.

Dear Ms. Adams:

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 the Chilton County Department of Human Resources (DHR) enter into a contract with Help.With.Com to provide a Personal Finance Course for families served by DHR, when the company is owned by the mother and stepfather of a County social worker?

FACTS AND ANALYSIS

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

Winiferd N. Adams is the Director of the Chilton County Department of Human Resources. The Department has received a proposal from Help.With.Com to provide a Personal Finance Course for families served by DHR. The owners of the company, Ritz and Harry Moritz, are the mother and stepfather, respectively, of one of the County social workers. Help.With.Com would like to sign-up as a service provider for Chilton County. Approved service providers are paid for their services through a purchase order authorized by social workers. Social workers authorize/recommend services on purchase orders. Supervisors approve purchase orders and the director approves the final disbursement.

The Alabama Ethics Law, Code of Alabama, 1975, 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(11) defines a family member of the public employee as:

"(11) FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The spouse or a dependent of the public employee."

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(10) defines a dependent as:

"(10) DEPENDENT. Any person, regardless of his or her legal residence or domicile, who receives 50 percent or more of his or her support from the public official or public employee or his or her spouse or who resided with the public official or public employee for more than 180 days during the reporting period."

Under the Alabama Ethics Law, a County social worker would be considered a public employee, and the family member would be limited to a spouse and dependent.

In this situation, the social worker has no financial interest in the business owned by her mother and stepfather and, as she does not provide any support to them, they are not considered her dependents.

Based on the facts as provided and the above law, the Chilton County Department of Human Resources may contract with a company owned by the mother and stepfather of a social worker employed by the Department, as the social worker is considered a public employee under the Ethics Law, and the mother and stepfather are not considered family members of a public employee, and where the social worker has no financial interest of any type in the company, nor provides support to the mother and stepfather.

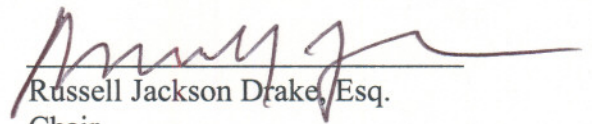
CONCLUSION

The Chilton County Department of Human Resources may contract with a company owned by the mother and stepfather of a social worker employed by the Department, as the social worker is considered a public employee under the Ethics Law, and the mother and stepfather are not considered family members of a public employee, and where the social worker has no financial interest of any type in the company, nor provides support to the mother and stepfather.

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AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on March 5, 2003.



Russell Jackson Drake, Esq.
Chair
Alabama Ethics Commission