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January 10, 1996

## ADVISORY OPINION NO. 96-03

Mr. Randy Colley  
Affordable Bail Bonds, Inc.  
578 Houston Street  
Alexander City, Alabama 35010

Personal Gain/ Law  
Enforcement Officer Using  
Position To Provide Clients  
To Family Member Working  
For Bonding Company.

A law enforcement officer  
may not provide information  
obtained in the course of his  
public employment, to a  
family member employed by  
a bail bonding company, in a  
manner that would result in  
personal gain to the law  
enforcement officer, the  
family member, or the  
business with which the  
family member is associated.

Dear Mr. Colley:

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 law enforcement officer arrest an individual, take them to jail, and provide information to a family member who works for a bonding company?

### FACTS AND ANALYSIS

A bail bondsman in the State of Alabama has requested an opinion on the above question. The facts presented are as follows.

Apparently, it is a common practice in the State of Alabama for a law enforcement officer to provide information to a family member who is employed with a bonding company.

What appears to be happening, is that when the law enforcement officer makes the arrest, they provide the name, charges, and bond amounts of inmates currently being held to the family member working for the bonding company, allowing the bonding company to provide bond for the inmate; and therefore, earning a fee for themselves.

The Alabama Ethics Law, Code of Alabama, Section 36-25-1(24) states:

*"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) states:

*"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 36-25-1(8) states:*

*"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(11) states:*

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

*Section 36-25-5(a) states:*

*"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 36-25-8 states:*

*"No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."*

While Section 36-25-8 may or may not be applicable as information concerning arrests and bonds may or may not be public record, the use of this information in the manner set forth in the request for this opinion, would at a minimum be a use of public position for personal gain and violate Section 36-25-5(a).

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**CONCLUSION**

A law enforcement officer may not provide information obtained in the course of his public employment, to a family member employed by a bail bonding company, in a manner that would result in personal gain to the law enforcement officer, the family member, or the business with which the family member is associated.

**AUTHORITY**

By 5 - 0 vote of the Alabama Ethics Commission on January 10, 1996.

A handwritten signature in black ink, appearing to read "H. Dean Buttram, Jr.", written over a horizontal line.

H. Dean Buttram, Jr.  
Chair  
Alabama Ethics Commission