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May 30, 1996

ADVISORY OPINION NO. 96-54

Mr. Richard T. Dorman
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1100 First Alabama Bank Building
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Public Official/Members Of
Mobile Airport Authority
Subject To Alabama's Ethics
Law.

Statement Of Economic
Interest/Requirements For
Board Members Of The
Mobile Airport Authority To
File Statements Of Economic
Interests.

Board members of the
Mobile Airport Authority are
public officials, and
therefore, are subject to the
Alabama Ethics Law.

Employees of the Mobile
Airport Authority are public
employees; and therefore, are
subject to the Alabama Ethics
Law.

As the Mobile Airport
Authority does not have

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statewide jurisdiction, board members are not required to file Statements of Economic Interest unless their base pay with the board is \$50,000 or more per year.

Employees of the Mobile Airport Authority whose base pay is \$50,000 or more per year, or who are purchasing or procurement agents having the authority to make any purchase as per Section 36-25-14(a)(19) are required to file Statements of Economic Interests.

Dear Mr. Dorman:

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

Are employees and members of the Mobile Airport Authority subject to the amended Ethics Act, and if so, are they required to file Statements of Economic Interest with the Ethics Commission?

FACTS AND ANALYSIS

The Mobile Airport Authority is a public corporation organized under the provisions of Section 4-3-40, Code of Alabama, 1975. The Authority was created locally to assume full operating responsibilities for the Mobile Municipal Airport, The Brooklyn Industrial Complex, and the Brookley Airport, which are all located within Mobile County, Alabama.

The Authority collects and disburses all funds generated from the operation of the

property referred to above, and employs a number of personnel in its own right. These personnel are paid directly by the Authority, and not by the State, County, or any Municipal Government.

The Board members, however, are appointed by the Mayor of Mobile and approved by the City Council.

Historically, under the provisions of Opinion No. 882, the members of the Board and employees of the Airport have not been considered subject to the Ethics Act. Due to the fact that the Ethics Law has been amended, the Airport Authority has requested this opinion.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(13) states:

"(13) GOVERNMENTAL CORPORATIONS AND AUTHORITIES. Public or private corporations and authorities, including but not limited to, hospitals or other health care corporations, established pursuant to state law by state, county or municipal governments for the purpose of carrying out a specific governmental function. Notwithstanding the foregoing, all employees, including contract employees, of hospitals or other health care corporations and authorities are exempt from the provisions of this chapter."

Section 36-25-1(24) states:

"(24) 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(25) states:

"(25) 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."

From the facts as presented, it would appear that the Mobile Airport Authority is a public corporation created under State law, and as the Mayor and Council of the City of Mobile appoint the members of the Mobile Airport Authority Board, they fall under the umbrella of Mobile City Government.

Based on these facts, board members and employees of the Mobile Airport Authority are subject to the Ethics Act.

The Board members, while subject to the provisions of the Alabama Ethics Law, are not required to file Statements of Economic Interests due to the fact that they are not a board having statewide jurisdiction, unless the board member receives a base salary of \$50,000 or more per year from the board.

Likewise, employees of the Mobile Airport Authority are required to file Statements of Economic Interests if they occupy a position whose base pay is \$50,000 or more annually, or who are purchasing or procurement agents having the authority to make purchases on behalf of the Authority.

CONCLUSION

Board members of the Mobile Airport Authority are public officials, and therefore, are subject to the Alabama Ethics Law.

Employees of the Mobile Airport Authority are public employees; and therefore, are subject to the Alabama Ethics Law.

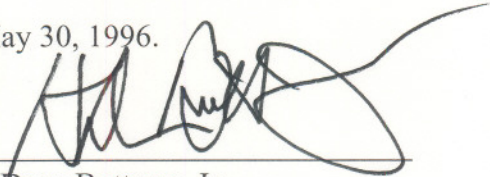
As the Mobile Airport Authority does not have statewide jurisdiction, board members are not required to file Statements of Economic Interest unless their base pay with the board is \$50,000 or more per year.

Employees of the Mobile Airport Authority whose base pay is \$50,000 or more per year, or who are purchasing or procurement agents having the authority to make any purchase as per Section 36-25-14(a)(19) are required to file Statements of Economic Interests.

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AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on May 30, 1996.



H. Dean Buttram, Jr.
Chair
Alabama Ethics Commission