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ADVISORY OPINION NO. 97-27

Robert Strickland
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Conflict Of Interests/Director Of Alabama Housing Finance Authority Serving On Advisory Council Of The Federal Home Loan Bank Of Atlanta And Accepting Remuneration For Attending Meetings.

The Executive Director of the Alabama Housing Finance Authority may accept remuneration for attending meetings of the Advisory Council of the Federal Home Loan Bank of Atlanta; provided, that the attendance at such meetings is done on his own time, whether it is after hours or on annual leave; that he not receive remuneration from the State of Alabama during the time he is paid for attendance at Advisory Council meetings; and that there is no use of State time, materials, equipment (including, but not limited to, telephones and fax machines), labor, and facilities to assist him in his work for the Advisory Council.

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Dear Mr. Strickland:

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 Executive Director of the Alabama Housing Finance Authority accept remuneration for attendance of meetings of the Advisory Council of the Federal Home Loan Bank of Atlanta?

FACTS AND ANALYSIS

Robert Strickland, the Executive Director of the Alabama Housing Finance Authority, has recently been appointed to the Advisory Council of the Federal Home Loan Bank of Atlanta for a one-year term which began on January 1. The Federal Home Loan Bank of Atlanta is one of 12 district banks created by the Federal Home Loan Bank Act of 1932. This act established a bank system of centralized credit reserves to supplement the resources of local home lending institutions. As a part of this system, the district banks have the power to make advances to member and non-member borrowers on the security of home mortgages. The Federal home Loan Bank of Atlanta serves a wide area which includes Alabama, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia and Washington, D.C.

The Advisory Council meets quarterly with the Housing Committee of the Bank's Board of Directors to offer advice on low and moderate income housing programs and needs. The Council also analyzes uses of the bank's community investment and affordable housing programs. Members of the Council receive a fee of \$250.00 per meeting in addition to reimbursement for travel, lodging and meal expenses.

Mr. Strickland's concern relates to the fee paid for attendance of Council meetings, and he has, therefore, requested an Advisory Opinion on this matter.

The Alabama Ethics Law, Code of Alabama, 1975, 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."

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."

Section 36-25-1(12) states:

"(12) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official."

Section 36-25-1(2) states:

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

"(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."

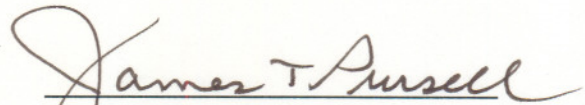
Based on the facts as presented and the above law, the Executive Director of the Alabama Housing Finance Authority may accept remuneration for attendance at meetings of the Advisory Council of the Federal Home Loan Bank of Atlanta; provided, that all work done on behalf of the Advisory Council be done on his own time, either after hours or on annual leave; that there is no use of State time, materials, equipment, labor, facilities, etc.; and that he is not paid by the State of Alabama at the same time he is providing a service to the Advisory Council.

CONCLUSION

The Executive Director of the Alabama Housing Finance Authority may accept remuneration for attending meetings of the Advisory Council of the Federal Home Loan Bank of Atlanta; provided, that the attendance at such meetings is done on his own time, whether it is after hours or on annual leave; that he not receive remuneration from the State of Alabama during the time he is paid for attendance at Advisory Council meetings; and that there is no use of State time, materials, equipment (including but not limited to telephones and fax machines), labor, and facilities to assist him in his work for the Advisory Council.

AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on April 30, 1997.


James T. Pursell
Chair
Alabama Ethics Commission