



STATE OF ALABAMA ETHICS COMMISSION



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February 2, 2022

ADVISORY OPINION NO. 2022-01

Hon. Samarria Munnerlyn Dunson
Hon. Lloria Munnerlyn James
8401 Timber Creek Dr.
Pike Road, Alabama 36064

Public Official / Use of Position / Personal
Gain / Outside Employment

The Ethics Act does not prohibit a Municipal Court Judge or a Circuit Court Judge from participating in a television program and receiving compensation for their participation provided they do not use equipment, facilities, time, materials, human labor, or other public property while participating in the program, they do not use any confidential information obtained from their position in any way that could result in financial gain for any person or business, and they do not otherwise use their position to obtain personal gain for themselves, any family member, or a business with which they are associated. This opinion extends only to the situation presented and similar questions must be determined on a case-by-case basis.

This opinion extends only to the restrictions found within the Ethics Act. The Alabama Attorney General's Office, Administrative Office of Courts, and Judicial Inquiry Commission can provide guidance as to whether any restrictions outside of the Ethics Act are applicable.

Dear Judge Dunson and Judge James:

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.

FACTS

On November 2, 2021, Samarra Munnerylyn Dunson, a Municipal Court judge in Montgomery, and Lloria Munnerylyn James, a Circuit Court Judge in Montgomery, were contacted by MGM Television to discuss a potential television project. It was explained that Executive Producers of MGM saw Judge Dunson and Judge James (“the sisters”) on the Kelly Clarkson show in 2021 and enjoyed their energy and interest in serving the community, most notably youth. Thereafter, they followed the sisters on social media and respected the work they did in the community, in addition to speeches provided to women’s groups and youth motivating listeners to compartmentalize their lives and other strategies for success.

The project that MGM television is asking the sisters to consider is a non-legal television show in which the sisters would assist actors who are playing the roles of teenagers as they address conflicts. The working title is *Teen Court*. The sisters would hear scenarios acted out by paid actors and then talk them through methods to resolve the conflict. None of the resolutions would be legally binding and none of the actors would be representing scenarios currently binding in any legal action. The sisters are not asked to mediate or arbitrate or provide any judgements or verdicts. The show is for entertainment value only but would allow the chance to mentor by providing youth, on a large-scale platform, the ability to visualize how to appropriately resolve disagreements.

The sisters desire to take part in this opportunity. After reviewing the terms associated with this project, they have determined that this unique opportunity will not conflict with their public employment. They will not use public property, time, labor, or equipment. Episodes will be taped in a condensed manner and will only take place while they are on annual leave or during weekends or holidays.

The sisters will be compensated by California-based JamCam Productions, LLC, in affiliation with MGM Television as contractors of JamCam Productions and not employees. The production company’s payment to the sisters will be for their roles as actresses in the series and will not influence their judicial decisions in Montgomery, Alabama.

QUESTION PRESENTED

Whether the Ethics Act prohibits the sisters from participating in the television show and being compensated by JamCam Productions, LLC.

ANALYSIS

The question presented requires a fact-specific analysis. Therefore, this opinion extends only to the situation presented by Judge Dunson and Judge James. Any similar questions or issues must be examined on a case-by-case basis.

As Municipal Court and Circuit Court judges, both Judge Dunson and Judge James are public officials.¹

It is also essential to the proper operation of government that those best qualified be encouraged to serve in government. Accordingly, legal safeguards against conflicts of interest shall be so designed as not to unnecessarily or unreasonably impede the service of those men and women who are elected or appointed to do so. An essential principal underlying our governmental structure is that its public officials and public employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interest, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided.²

The Ethics Act does not prohibit the sisters from participating in the television show in question or from receiving compensation from JamCam Productions for their participation. The sisters are prohibited from using their positions for personal gain for themselves, a family member, or a business with which they are associated.³

¹ “(27) 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 17-13-40.” Ala. Code § 36-25-1(27).

² Ala. Code § 36-25-2(b).

³ “(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.” Ala. Code § 36-25-5(a).

An appearance by the sisters as judges on the show or the use of their titles as judges would not constitute a use of their position for personal gain. The sisters are prohibited from using equipment, facilities, time, materials, human labor, or other public property under their discretion or control for the private benefit or business benefit of any person, which would materially affect their financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy.⁴ The sisters may not use or disclose any confidential information obtained from their position in any way that could result in financial gain for any person or business.⁵ The sisters may also not solicit or receive anything for the purpose of corruptly influencing their official action.⁶ Further, the sisters may not solicit or receive a “Thing of Value” from a lobbyist, subordinate of a lobbyist, or a principal.⁷ Neither JamCam Productions,

⁴ “(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. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between public officials or public employees and eleemosynary or membership organizations or such organizations communicating with public officials or public employees.” Ala. Code § 36-25-5(c)

⁵ “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.” Ala. Code § 36-25-8.

⁶ “(a) No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value.

(b) No public official or public employee shall solicit or receive anything for himself or herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value.

(c) No person shall offer or give a family member of the public official or family member of the public employee anything for the purpose of corruptly influencing official action, regardless of whether or not the thing offered or given is a thing of value.

(d) No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which he or she is a member. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his or her official duties or responsibilities.

(e) For purposes of this section, to act corruptly means to act voluntarily, deliberately, and dishonestly to either accomplish an unlawful end or result or to use an unlawful method or means to accomplish an otherwise lawful end or result.” Ala. Code § 36-25-7.

⁷ “(a) No lobbyist, subordinate of a lobbyist, or principal shall offer or provide a thing of value to a public employee or public official or to a family member of the public employee or family member of the public official; and no public employee or public official or family member of the public employee or family member of the public official shall solicit or receive a thing of value from a lobbyist, subordinate of a lobbyist, or principal. Notwithstanding the foregoing, a lobbyist, or principal may offer or provide and a public official, public employee, or candidate may solicit or receive items of de minimis value.” Ala. Code § 36-25-5.1.

LLC, nor MGM Television are registered as principals.⁸

This opinion extends only to the restrictions found within the Ethics Act.

CONCLUSION

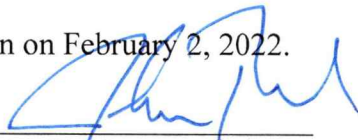
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This opinion extends only to the restrictions found within the Ethics Act. The Alabama Attorney General's Office, Administrative Office of Courts, and Judicial Inquiry Commission can provide guidance as to whether any restrictions outside of the Ethics Act are applicable.

⁸ "(24) PRINCIPAL. A person or business which employs, hires, or otherwise retains a lobbyist. A principal is not a lobbyist but is not allowed to give a thing of value." Ala. Code § 36-25-1(24).

AUTHORITY

By 5/0 vote of the Alabama Ethics Commission on February 2, 2022.



John Plunk
Chair
Alabama Ethics Commission