



OHIO ETHICS COMMISSION
THE ATLAS BUILDING
8 EAST LONG STREET, SUITE 1200
COLUMBUS, OHIO 43215-2940
(614) 466-7090

December 16, 1988

Informal Opinion 1988-INF-1216-1

Harvey G. Oppmann, Chairman
Ohio Building Authority

Dear Mr. Oppmann:

You have asked whether the Ohio Ethics Law and related statutes prohibit you from participating in the decision of the Ohio Building Authority (the Authority) to contract with Drexel, Burnham, Lambert (Drexel), an investment banking firm, in light of the fact that a vice president of this firm, Mr. Russell Geuther, previously had an investment in a limited partnership of which you are a general partner.

You state, by way of history, that in 1986, Mr. Geuther had an investment in a limited partnership of which you were general partner. Mr. Geuther was also associated with an investment banking firm, McDonald & Company Securities, Inc. (McDonald). On August 29, 1986, the Ethics Commission issued an opinion holding that R.C. 2921.42(A)(1) would prohibit you from voting, authorizing, or otherwise using the authority or influence of your office to secure approval of a contract with the investment banking and brokerage firm based on the fact that Mr. Geuther was the executive vice president of the brokerage firm and was a limited partner in a partnership of which you were the general partner, and that there were other relationships between you and McDonald. The opinion further concluded that the Authority should not enter a transaction with the firm even if you abstained from involvement in the matter in light of the overall circumstances of your relationship with the firm.

You have stated in your letter that Mr. Geuther divested himself of his investment in your partnership nearly a year ago and that he has no other investments in your business relationships. Further, Mr. Geuther left McDonald and is now the vice president for the municipal finance area with Drexel. It is my understanding from Mr. Dobrowski that Mr. Geuther would be involved in the negotiation, execution, and performance of any contracts between Drexel and the Authority. You wish to know whether you must abstain from participation in the decision of the Authority to contract with Drexel.

Division (A)(1) of Section 2921.42 of the Revised Code prohibits a public official from authorizing, or using the authority or influence of his office to secure authorization of a public contract in which he, a member of his family, or any of his business associates has an interest. Furthermore, Division (D) of Section 102.03 of the Revised Code prohibits a public official or employee from using the authority or influence of his office or employment to secure anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties. The Ethics Commission has interpreted this provision as prohibiting a public official from

participating in matters which would provide a pecuniary benefit or detriment to his interests or the interests of any of his business associates. See Advisory Opinion No. 88-004.

You have stated that Mr. Geuther divested himself of his investment in the partnership of which you are the general partner nearly a year ago, and that he has no other business relations with you. You would not, therefore, be prohibited by R.C. 2921.42(A)(1) or R.C. 102.03(D) from participating in matters relating to the firm by which Mr. Geuther is currently employed, if you have no existing business relationship with Mr. Geuther at this time and if there is no understanding between you and Mr. Geuther that you will resume a business relationship after the matters between the Authority and Drexel have been transacted or at some other future time. In concluding that you may participate in matters relating to Drexel, it is also assumed that neither you nor any of your family members or other business associates has an interest in, or is otherwise associated with Drexel. Indeed, the Authority and Drexel would be precluded from contracting by R.C. 2921.42 if you have an interest in Drexel since Division (A)(4) of that Section prohibits a public official from having an interest in a public contract entered into by or for the use of the governmental agency with which he serves.

This informal advisory opinion was approved by the Ethics Commission at its meeting on December 16, 1988, and is based on the facts presented. The opinion is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules. If you have any questions concerning this matter, please contact me.

Sincerely,



Melissa A. Warheit
Executive Director

MW/pg