



OHIO ETHICS COMMISSION

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Columbus, Ohio 43215-2940

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February 8, 1995

Informal Opinion 1995-INF-0208-2

Jeffrey L. Hollister, President
Vanguard Paints and Finishes, Inc.

Dear Mr. Hollister:

In your letter to the Ethics Commission, you ask whether the Ohio Ethics Laws and related statutes prohibit you from serving on the board of directors of Bank One of Marietta, N.A. (Bank) during your wife's term as Lieutenant Governor because the Bank is regulated, in part, by the State of Ohio.

It must be noted initially that the provisions of the Ohio Ethics Law and related statutes include prohibitions against **public officials and employees** misusing their official position for their own personal benefit, or the benefit of their family members or business associates, or where there is otherwise a conflict of interest. Accordingly, with two exceptions, see R.C. 102.03 (F) and 2921.43, described below, the provisions of the Ethics Law and related statutes **do not** apply to you since you do not hold public office or employment. However, your spouse, as Lieutenant Governor, is subject to all of the prohibitions imposed by the Ethics Law and related statutes. I have enclosed an analysis that describes the effect of these restrictions and a copy of the statutes under the jurisdiction of the Ethics Commission.

As explained in the analysis, the Ethics Commission has recognized that a spouse is statutorily empowered to contract in his or her own right as if unmarried and that the earnings of a married person constitute his or her separate property. Accordingly, the Commission has consistently held that the contractual interests of spouses are independent and a public official is not deemed to have a definite and direct interest in a contract merely because his or her spouse has an interest in such contract, absent additional facts that would indicate otherwise. The Commission has explained that while a public official may have an indirect interest in contracts in which his or her spouse has an interest, generally, this indirect interest is insufficient to preclude the public official's spouse from engaging in private business activity. However, as explained in the analysis, the Ethics Law and related statutes prohibit a public official or employee from misusing his or her public position for the benefit of a family member.

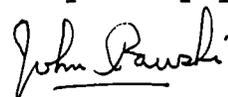
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In the instant situation, the Ohio Ethics Laws and related statutes do not prohibit you from serving on the board of Bank One of Marietta, N.A. during your wife's term as Lieutenant Governor. If you have specific questions concerning either the holding of this advisory opinion or the prohibitions that are explained in the analysis, you should contact the Ethics Commission for further guidance.

This advisory opinion and the enclosed analysis, were approved by the Ethics Commission at its meeting on February 8, 1995. This opinion is based on the facts presented, and is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code. The Commission apologizes for the delay in responding to your request and regrets any inconvenience this delay may have caused.

Please call me if you have any questions, or wish to request a formal opinion from the Commission.

Very truly yours,



John Rawski
Staff Attorney

Enclosures

Analysis of Ethics Law Prohibitions
Ohio Ethics Law and related statutes