



OHIO ETHICS COMMISSION

8 East Long Street, 10th Floor

Columbus, Ohio 43215

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March 17, 1997

Informal Opinion 1997-INF-0317

David J. Randall, Deputy Director
Ohio Department of Insurance

Dear Mr. Randall:

I am writing in response to your letter, received at the Ethics Commission on January 6, 1997, in which you request a clarification of the financial disclosure requirements of the Ohio Ethics Law with regard to your income. You currently serve as a deputy director of the Ohio Department of Insurance. You stated that your spouse has a sole-proprietorship consulting business, which is known as Cortney Randall Consulting. She currently has two clients. You state that neither client is tied directly or indirectly to any entity regulated by, doing or seeking to do business with, or interested in matters before the Ohio Department of Insurance. You asked whether she must disclose both of her clients. Because your spouse is not a public official subject to financial disclosure, I will assume that you are asking whether you must disclose the clients of your spouse's business.

In general, subject to the discussion below, the Ohio Ethics Law and related statutes do not require you to disclose the clients of your spouse's business on your annual financial disclosure statement.

Under the financial disclosure provisions of the Ohio Ethics Law, specifically R.C. 102.02(A), a deputy director of an administrative department of the state is required to file an annual financial disclosure statement (FDS) with the Ohio Ethics Commission. As a deputy director of the Ohio Department of Insurance, you are required to file an annual FDS. R.C. 102.02(A).

Revised Code 102.02(A)(1) requires the disclosure of "the name of the person filing the statement and each member of his immediate family and all names under which the person or members of his immediate family does business." "Immediate family" is defined in R.C. 102.01(D) as a spouse residing in the person's household and any dependent child. Based upon the statutory language, you must disclose the names of your wife and child, as well as the name of your wife's business, Cortney Randall Consulting.

David J. Randall
March 17, 1997
Page 2

Revised Code 102.02(A)(2)(a) requires persons who are required to file financial disclosure statements to disclose:

. . . every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in his own name or by any other person for his use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. . . . Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or individual profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents as defined in section 101.70 of the Revised Code. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person whom the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

In 1975, the Ethics Commission was asked to interpret the financial disclosure requirements with regard to whether a city councilwoman was required to disclose the sources of her husband's income on her annual FDS. In Advisory Opinion No. 75-036, the Commission stated that R.C. 102.02(A)(2) did not require the councilwoman to disclose the sources of her husband's income because a salary is commonly understood to be received by an employee, for the performance of a service for the employer. The Commission stated that the salary was not received by the husband/employee for the councilwoman's use or benefit, and that the husband's decision to use some or all of the income for the councilwoman's use or benefit was irrelevant. For your reference, I am enclosing a copy of Advisory Opinion No. 75-036.

Based upon the information that you supplied, you are not required to disclose the sources of income to your wife's business, unless that income was received for your use or benefit. If, however, you personally receive income from Cortney Randall Consulting, such as a distributive share of partnership assets or a stock dividend, then you must disclose the company as a source of income.

Please note that you might be required to disclose Cortney Randall Consulting on your FDS for several other reasons. First, if you have invested more than \$1000 in, or serve as an officer of, Cortney Randall Consulting, you must disclose the investment or fiduciary interest in response to the question on the form and pursuant to R.C. 102.02(A)(3). Second, if the company

David J. Randall
March 17, 1997
Page 3

owed you more than \$1000 in 1996, you must disclose the company as a debtor under the appropriate question on the form and pursuant to R.C. 102.02(A)(6). Finally, if you owed the company more than \$1000 in 1996, you must disclose the company as a creditor on the form, pursuant to R.C. 102.02(A)(5).

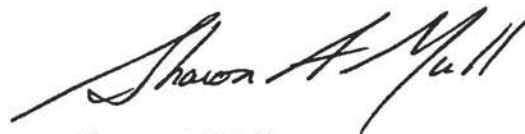
In response to your questions, I have indicated what is required under the financial disclosure provisions of the law. In keeping with the spirit of financial disclosure, our office has always indicated that a public official who files a financial disclosure statement is free to provide additional information that he or she feels is relevant to their public duties, but which is not required to be disclosed by law.

This informal advisory opinion was approved by the Ethics Commission at its meeting on March 14, 1997. The opinion is based on the facts presented and is limited to questions arising under Chapter 102. and Sections 2921.42, 2921.421, and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

If you have any questions about the financial disclosure filing requirements, the information to be disclosed, or the process followed, please call our office. In addition, if you have any questions about the impact of your interests, or those of your family or business associates, upon your actions as a public official, or upon the business or regulation of your public agency, please do not hesitate to contact our office.

Thank you for your continued compliance with this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon A. Mull". The signature is written in a cursive style with a long horizontal stroke at the beginning and a vertical stroke at the end.

Sharon A. Mull
Staff Attorney

Encl: 75-036