



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 316

March 22, 1996

Whether a person who is an "equity member" of a law firm operated as a professional corporation and who is also on the governing board of a state agency may act on a matter before the state agency that involves the financial interests of a client of the law firm. (AOR-352)

The Texas Ethics Commission has been asked whether a person who is an "equity member" of a law firm operated as a professional corporation and who is also on the governing board of a state agency may act on a matter before the state agency that involves the financial interests of a client of the law firm. Section 572.058 of the Government Code contains a recusal requirement applicable to members of state boards:

An elected or appointed officer . . . who is a member of a board or commission having policy direction over a state agency and who has *a personal or private interest* in a measure, proposal, or decision pending before the board or commission shall publicly disclose the fact to the board or commission in a meeting called and held in compliance with [the Open Meetings Act]. The officer may not vote or otherwise participate in the decision. The disclosure shall be entered in the minutes of the meeting. (Emphasis added.)

The question here is whether the fact that a board member's law firm represents a client in matters not involving the board constitutes a "personal or private interest" in a matter the client brings before the board. The request letter notes that the board member's law firm will not be involved in the matter before the board. It also states, "The revenues generated for the law firm from the client are

negligible and insignificant compared to the total revenues of the firm. . . . None of the revenues generated by the client are directly or indirectly dependent upon the client's dealings with [the board]."

Based on the facts given in the request letter, we do not think the relationship between the board member and the individual seeking board action creates "a personal or private interest" on the board member's part in the matter before the board.

SUMMARY

The fact that an agency board member's law firm represents a client in matters not involving the board does not, by itself, create "a personal or private interest" on the part of the board member in a matter on which the client is seeking board action.