



THE PRINCE GEORGE'S COUNTY GOVERNMENT
BOARD OF ETHICS

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County Executive

Robin Barnes-Shell
Executive Director

The Honorable Covette Rooney, Chair
Cassandra Burckhalter, Member
Anne Magner, Esq., Member
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Norris Sydnor, Member

BOARD OPINION

April 11, 2014

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Case Number AO14-0037

Dear [REDACTED]:

You requested an additional advisory opinion from the Board of Ethics regarding any potential conflicts arising out of your business as a photographer now that you are a certified Minority Business Enterprise (MBE), Disadvantaged Business Enterprise (DBE) and Prince George's County-based Certified. Your request indicates that you are clear that you are not permitted to work on any Prince George's County government contracts, but asks for clarification on the ramifications of these certifications on your secondary employment.

Per the July 12, 2012 Advisory Opinion you received, your photography business does not create any conflicts with your current position as [REDACTED] because you fall under the ministerial duties exception of Section 2-293(1)(B)(iii). The position description for your official class title is Administrative Assistant III. The Position Description Performance Standards for that position does not involve the exercise of official discretion or independent judgment.

It is our understanding that your request pertains to the effect of the various certifications of your photography business, as you are privy to information about events for certified businesses as part of your job with Prince George's County Government.

Prince George's County Code Section 2-293. Prohibited conduct and interest provides:

....

(b) Employment Restrictions.

(1) (A) Except as permitted by regulation of the Board when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by, or have a financial interest in, any entity subject to his authority or that of the County agency, board, or commission with which he is affiliated or any entity which is negotiating or has entered a contract with that agency, board, or commission; or

(ii) Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee.

(B) This prohibition does not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;

(ii) Subject to other provisions of law, including this Section 2-293, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and Board; or

(iii) **An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Board;** or

(iv) Employment or financial interests allowed by regulation of the Board if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

As noted above, and in the previous Board opinion, your duties are ministerial as they pertain to contracting with outside entities. While you may not contract, or act as a subcontractor for another entity that contracts, with Prince George's County Government, your position with [REDACTED] may make you privy to events and services available to those businesses similarly certified. Prince George's County Code Section 2-293(f) provides that "an...employee may not use...any...resources of the County for...personal matters and services." Accordingly, information that you glean as a result of your position with the County may not be used for advancing your photography business.

However, if you are notified of the same information as a result of your certifications, in the same manner as other similarly certified entities who are not employed by Prince George's County Government, there is no conflict with your participating in those events or engaging in those activities, aside from those directly with Prince George's County Government, outside of your duty hours.

In reaching this decision, the Board of Ethics has relied upon the facts you have presented. However, we recommend that you seek an opinion from this Board and, depending upon the circumstance, legal counsel if at any time you determine that a conflict of interest, an appearance of a conflict of interest, or violation of the Code of Ethics may occur. If you require additional information, please do not hesitate to contact this office.

Sincerely,

/s/Covette Rooney
Covette Rooney
Board Chair