

registered mail as provided for in Rule 7.070, RSP, and such costs of effecting such service are required to be included within and paid from the filing fee prescribed by law. However, the imposition of the filing fee, as well as the inclusion of the costs of service by certified or registered mail as authorized by Rule 7.070 in such filing fee, and the payment of said costs from said filing fee are controlled and governed by the statute rather than the rule.

Your question is answered in the affirmative.

073-120—April 16, 1973

STANDARDS OF CONDUCT LAW

COUNTY PURCHASE OF FIRE EQUIPMENT FROM COMPANY OWNED BY PART-TIME COUNTY EMPLOYEE

To: *Public Employee*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTION:

Is it lawful under the Standards of Conduct Law for the county to purchase fire equipment from a company owned and operated by a part-time county employee?

SUMMARY:

The Standards of Conduct Law, §112.314(1) and (2), F. S., does not prohibit the county commissioners from purchasing, on competitive bidding, fire equipment from a company owned by a part-time employee in the county's fire department.

The section of the Standards of Conduct Law relating to business transactions of a public officer or employee §112.314(1), F. S. reads as follows:

(1) No officer or employee of . . . a county . . . shall transact any business *in his official capacity* with any business entity of which he is an officer, director, agent, or member or in which he owns a controlling interest. (Emphasis supplied.)

It is clear that the sale of fire equipment by you to the board of county commissioners would not be in your official capacity but in your private capacity as owner of the fire equipment company. It appears that the equipment is purchased by the board under competitive bidding; and you apparently have no part in the decision as to what the various county fire departments need or from whom and on what terms the supplies and equipment for their use are acquired. In these circumstances, I can find no violation of §112.314(1), *supra*, in making the purchase and sale in question.

I have not overlooked §112.314(2), F. S., which prohibits an employee of the county from having personal investments "in any enterprise which will create a substantial conflict between his private interests and the public interest." A violation of this provision of the statute would subject the county employee to dismissal from employment and to the criminal sanctions prescribed by §112.317, *id.* However, I can see no *substantial* conflict between your duties as a part-time employee of the fire department and your personal interest in the fire equipment company, in view of the fact that the purchases of fire equipment are made by the county commissioners under competitive bidding procedures.

It should be noted that §112.313(2), *id.*, requires a public officer or employee to file a sworn statement of an interest as officer, director, agent, member, or owner of

a controlling interest in a business entity that is subject to the regulation of or has substantial business commitments from a state or local governmental agency. As your fire equipment business appears to have substantial business commitments with several public agencies in the area, you should file with the circuit court clerk of the county a sworn statement disclosing such interest.

073-121—April 16, 1973

CONFLICT OF INTEREST

PURCHASED BY PORT AUTHORITY OF MATERIALS FROM CORPORATION OF WHICH AUTHORITY MEMBER IS BRANCH MANAGER

To: Public Officer

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTIONS:

1. May a port authority, through its managing director, purchase office supplies and equipment from a national manufacturing company when a member of the authority is the local branch manager of the office products division of the manufacturer?
2. May the authority sell land to a corporation, or construct site preparation improvements on the property at the corporate purchaser's direction and expense, when the local branch of the national manufacturer referred to above has in the past and may in the future transact a substantial amount of business with the corporation?
3. If these transactions are valid, should the interested member declare a possible conflict of interest under §286.012, F. S., and abstain from voting?

SUMMARY:

The managing director of a port authority may purchase supplies and equipment from a company whose local branch office is managed by a member of the port authority without violating §112.314(1), §112.314(2), or §§839.08-839.10, F. S. Nor would such statutes be violated by a sale of land by the authority to another corporation which has in the past and may in the future transact substantial business with the branch office managed by the authority member. If the consummation of the transaction with the corporation is done in the expectation that the probable consequence thereof would be a substantial increase in the business of the corporation with the local branch office managed by the authority member, such member could validly abstain from voting upon the transaction under §286.012, F. S., and should abstain as a matter of public policy. However, if the possibility of increased business with or purchases from the branch office is merely remote and speculative, the authority member should not abstain from voting upon the transaction.

AS TO QUESTION 1:

It appears that the authority member is the manager of the local branch of the office products division of a national manufacturing company. The authority has delegated to its managing director the authority to approve capital and operating expenditures for and to procure office equipment and supplies of less than one thousand five hundred dollars. Competitive bidding contracts covering the