

rule ordinance, for the procedure to be followed in that county in purchasing materials, equipment, and supplies for county use.

Your question is answered in the affirmative.

073-357—September 20, 1973

STANDARDS OF CONDUCT

STATE TROOPER AS MEMBER OF CORPORATION WHICH ACTS AS AGENT FOR NATIONAL CORPORATION HAVING STATE CONTRACTS

To: Florida Highway Patrolmen

Prepared by: Victor Walsh, Assistant Attorney General

QUESTION:

Does the Standards of Conduct Law, §§112.311-112.318, F. S., prohibit a highway patrolman from serving as a director and part owner of a corporation which will distribute, as a franchised dealer, the tires of a national company to state and county agencies, pursuant to contracts with such public agencies entered into by the national company?

SUMMARY:

The Standards of Conduct Law, §§112.311-112.318, F. S., would not prohibit a state highway patrolman from serving as a director and part owner of a corporation which is a franchised dealer of the products of a national tire company, even though the national company sells such products to state and local governmental agencies and distributes them to such agencies through the franchised corporate dealer. The patrolman should file a sworn statement disclosing his interest in the distributor corporation as required by §112.313(2).

You refer to the employee policies of your department. I assume that you are referring to those policies promulgated under §321.02, F. S., by the Department of Highway Safety and Motor Vehicles. Policy number 017 is essentially a verbatim reiteration of the Standards of Conduct Law, *supra*. Accordingly, I will consider only the statute and assume that the department's view of its parallel policy is in line with my view of the Standards of Conduct Law.

Section 112.314(1), F. S., in part, states:

(1) No officer or employee of a state agency . . . 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.)

Since in your official capacity you play no role in the decision as to when, whether, and from whom to purchase tires, this section is inapplicable. *Accord*: Attorney General Opinion 073-121.

Section 112.313(4), *id.*, prohibits a public officer or employee from accepting employment or engaging in any business or professional activity "which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position." The applicability of this provision of the law to your situation is not immediately apparent to me. However, it should be considered by you in the light of your superior knowledge of the facts and circumstances of your official employment.

Section 112.314(2), *id.*, provides that no state employee shall have personal investments in any enterprise which will create a substantial conflict between his private interests and the public interest. A state highway patrolman would officially have nothing to do with a tire distributorship. Because of this, this section is also inapplicable.

The only other provision of the Standards of Conduct Law, *supra*, which might be applicable is §112.313(2), F. S., which provides that when a state employee is a director of, or "owns a controlling interest" (more than 10 percent) in, a company which is subject to the regulations of, or which has substantial business commitments from, any state agency, county, city, or other political subdivision, he shall file a sworn statement disclosing such interest with the secretary of state. Although the corporate franchise in which you are interested does not contract directly with the state and other public agencies for tires, the contracts with such public agencies by the national company whose products the corporation distributes apparently contemplate the fulfillment of some of those contracts through the agency of such corporate distributor. If the corporate dealer or franchiser is named in such contracts, it would seem that the distributor corporation might be said to have substantial business commitments from such agencies, indirectly even though not directly; and I am inclined to the view that, to comply with the spirit and intent of the law, a sworn statement disclosing your interest in the distributor corporation should be filed in accordance with §112.313(2).

073-358—September 21, 1973

JUDGES

FILING REPORTS OF FINANCIAL CONTRIBUTIONS

To: Robert M. Deehl, Dade County Judge, Miami

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

Are county court judges required to file the sworn statement required by §111.011(2)(a), F. S., listing contributions and expenditures thereof?

SUMMARY:

Financial reports of gifts, other than campaign contributions, are to be made by judges under Canon 6 of the Code of Judicial Conduct and not under §111.011, F. S. A judge should continue to report campaign contributions in accordance with the requirements of law.

Section 111.011(2)(a), *supra* [adopted by Ch. 70-230, Laws of Florida], requires each "elected public officer" to file a sworn statement containing a list of

. . . all contributions received by him or on his behalf, if any, and expenditures from, or disposition made of, such contributions by such officer *which are not otherwise required to be reported by chapter 99*, with the names and addresses of persons making such contributions or receiving payment or distribution from such contributions and the dates thereof. . . . (Emphasis supplied.)

The statements are required to be made semiannually for the periods July 1 through December 31, and January 1 through June 30, each year.

In the same year in which this statute was adopted, the Supreme Court adopted an amendment to Rule 25 of the Code of Ethics for Judges (*see* Petition of