



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

April 18, 2017

Hon. Lisa Keim
Maine Senate
3 State House Station
Augusta, ME 04333-0003

Dear Senator Keim,

Thank you for seeking an advisory opinion from the Maine Commission on Governmental Ethics and Election Practices (the Commission) concerning whether it would be a violation of legislative ethics for you to assist Catalyst Paper Corporation in obtaining financial assistance from Maine state government or other sources for a new tissue machine or for worker training. The firm operates a paper mill in Rumford that is a major employer within your district and that employs your husband.

Information Provided

You have provided the Commission the following information in an April 12, 2017 request for an advisory opinion and an April 13 follow-up letter responding to three questions.

Spouse's Employment. Your husband, Blue Keim, is employed by Catalyst Paper Corporation, which owns the pulp and paper mill in Rumford (the Rumford Mill), as the Manager for Operational Excellence. In this position, he is responsible for "efficiency enhancements and cost reductions across the facility" and reports to the facility Vice President and General Manager.

In addition to employing your husband, the Rumford Mill is a major employer in your district and "many of [your] constituents' livelihoods depend upon its success." You write that securing state assistance could make the installation of a new tissue machine more likely. If the mill were to open a new tissue plant, it is possible your husband could apply for a position which – if he obtained it – could result in a nominal increase in his compensation. Conversely, if the mill is unable to find the resources to expand its

operations, you write that there is a greater likelihood of a closure of the mill, which would be devastating for your region.

Proposed activities. You propose to assist the Rumford Mill by helping locate grants or other sources of state assistance that may finance or support the installation of a new tissue machine or the upgrade of existing infrastructure. You also plan to assist the Rumford Mill in locating state resources to train current and new workers for the mill. To do so, you plan to contact state agencies, including the Maine Department of Labor, the Maine Department of Economic and Community Development (DECD) and Efficiency Maine to ask about the availability of relevant programs. You would share this research with the Rumford Mill. You also anticipate attending any meetings between the Rumford Mill and state agencies or the Governor's Office, to keep informed on the progress of obtaining state assistance and further that endeavor if possible.

You do not plan to introduce any legislation this term which might benefit Catalyst Paper, though you are generally supportive of legislation that encourages job creation and improves the state's business climate.

Applicability of Statutes

Your April 12th letter asks the Commission to offer an opinion on whether these proposed activities violate legislative ethics laws. Below, the Commission applies the standards for conflict of interest, undue influence and abuse of office or position in 1 M.R.S.A. § 1014 to the activities you have proposed.

Title 1, Section 1014(1), Conflicts of Interest. Since you do not contemplate introducing or voting on legislation to assist Catalyst Paper Corporation, the Commission does not believe your proposed activities would constitute a conflict of interest as defined in § 1014(1). If you do introduce or influence any legislation to assist Catalyst Paper Corporation in the future, please feel free to contact this office for additional advice.

Title 1, Section 1014(2-A), Undue Influence. The activities you have proposed would not result in undue influence on a department of Maine State government, as that term is defined in § 1014(2-A). Paragraph (2-A)(A) is not applicable because you would not be compensated for your activities in assisting Catalyst Paper Corporation. The agencies that you propose to contact (DECD, the Department of Labor, Efficiency Maine) are not overseen by the legislative oversight committees to which you are assigned (the Joint

Standing Committees on the Judiciary and State and Local Government). Accordingly, paragraph (2-A)(B) is not implicated. Because you are not proposing to represent or assist another in a sale of goods or services to the State, your proposed activities would not violate paragraph (2-A)(C).

Title 1, Section 1014(3), Abuse of Office or Position. Under Section 1014(3), certain activities are defined as an abuse of a Legislator's office, in order to prevent wrongful use of the office to benefit oneself or another person. Paragraph (3)(A) would not apply to your proposed activities, because that paragraph relates to non-competitive contracts in which the State is purchasing goods or services from a Legislator, their immediate family, or an organization that has a close economic association with them.

Paragraph (3)(B) forbids a Legislator from obtaining a special privilege or preferential treatment for the Legislator or for another, which is not readily available to other members of the class to which the beneficiary belongs. The Commission believes the sharing of your research with Catalyst Paper and your attendance at meetings between the company and state officials would not, in itself, give rise to any inference that you were seeking a special privilege or preferential treatment. Nevertheless, please be aware of how your actions could be perceived by employees of those agencies, and avoid any situation where it may appear you are trying to obtain a special privilege or preferential treatment for the mill not readily available to others.

So long as you do not obtain confidential information through your position as a Legislator and use that information to benefit the Rumford Mill or others, Paragraph (3)(C) should not apply to your situation.

Title 1, Section 1014(4), Contract with State Government Agency. Because what you are anticipating doing should not result in a contract between you or an associated organization and the State, this section does not apply to your situation.

Conclusion

The Commission concludes that your proposed activities do not constitute a violation of legislative ethics, provided that you do not seek any special privilege or preferential treatment for the Catalyst Paper Corporation that is not readily available to the class of businesses to which it belongs. Because your spouse works at the mill, we do suggest making sure that you are comfortable with the appearances of the situation. The

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statement of purpose in the Legislative Ethics Law encourages members to consider the appearance of a conflict of interest or abuse of position, even when there is no actual impropriety. (1 M.R.S.A. § 1011) Some members of the public could find it inappropriate for a State Senator to assist their spouse's employer in locating financial assistance through programs administered by the State of Maine.

There are countervailing factors for public consideration, however. Many citizens expect their Legislators to do just what you contemplate: help an employer in their district obtain state assistance. The Rumford Mill is a major employer in your district. You could be criticized for not assisting the mill in taking advantage of financial assistance and worker training opportunities afforded by the state. Based on the information you have provided, any financial benefit to your husband would be speculative and not directly tied to your actions. Expansion of the mill operations would benefit other mill employees generally.

The potential that some members of the public could take issue with your proposed activities is one for you to weigh as an elected official. The Commission is of the opinion that the Legislative Ethics Law permits you to undertake the actions you have proposed, provided that you do not seek special advantage or preferential treatment for Catalyst Paper Corporation.

Thank you for seeking an advisory opinion from the Commission.

Sincerely,



Margaret E. Matheson
Chair