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Senate

State of Minnesota

March 6, 2008

The Honorable Julianne E. Ortman
State Senator
125 State Office Building
St. Paul, Mn 55155

Subj: Advisory Opinion on Conflict of Interest

Dear Senator Ortman:

Your letter of February 21, 2008, requested the Subcommittee on Ethical Conduct to give you an advisory opinion on whether you have a conflict of interest as chief author of S.F. No. 294 or S.F. No. 2984. At your request, the Subcommittee held a public meeting on March 6, 2008, at which you explained your request and responded to questions from the Subcommittee about your potential conflicts of interest. The Subcommittee determined that you do not have a conflict of interest as chief author of either of the two bills. This letter serves as a public record of the Subcommittee's advice to you.

1. **Facts**

a. **S.F. No. 294**

On January 2, 2007, Senator Ortman introduced S.F. No. 294, which changes the standards and procedures for expunging criminal records. The bill was referred to the Committee on Judiciary. On February 26, 2007, the committee amended the bill and referred it to the Committee on Business, Industry, and Jobs. On March 5, 2007, the Jobs Committee recommended the bill to pass and referred it to the Finance Committee, where it has remained without a hearing.

In April 2007, Senator Ortman began employment as Finance Director in the Office of the Hennepin County Sheriff. She is employed part-time, 40 to 80 hours per pay period. Her duties include overseeing the budget of the Sheriff's Office and supervising the expenditure of money appropriated by the Hennepin County Board to the Sheriff's Office. They do not include lobbying on behalf of the Sheriff's Office. Her compensation from the Sheriff's Office does not depend on her success at passing bills in the Legislature.

The Hennepin County Sheriff's Office receives requests for criminal background checks on specified individuals and performs those background checks. The background checks include reviewing criminal records, which may or may not have been expunged. The Hennepin County Sheriff's Office would not be affected by S.F. No. 294 any differently than any other sheriff's office. Senator Ortman receives no personal financial benefit from the work of the Sheriff's Office related to criminal background checks.

b. S.F. No. 2984

On February 21, 2008, Senator Ortman introduced S.F. No. 2984, a bill to modify the right of reinstatement and other provisions relating to mortgage foreclosure. It was referred to the Committee on Judiciary and has not yet been heard.

The Hennepin County Sheriff's Office handles mortgage foreclosure sales as provided by Minnesota law. The Hennepin County Sheriff's Office would not be affected by S.F. No. 2984 any differently than any other sheriff's office. Senator Ortman receives no personal financial benefit from the work of the Sheriff's Office related to mortgage foreclosures.

2. Conflict of Interest Law

Our Constitution creates a part-time legislature. The Legislature is prohibited from meeting after the Monday after the third Saturday in May or for more than 120 days in a biennium. The reason we have a part-time legislature is so that we may have a citizen-legislature, filled with members who must spend the greater part of each year earning a living under the laws they have enacted. We have thought this is good, because it helps to keep legislators in touch with the real-world problems of their constituents. However, it also means that legislators may occasionally have conflicts between their official duties and their private employment.

Our conflict of interest law is primarily a disclosure law. It assumes that a public official will occasionally have conflicts of interest. This is especially true for legislators. When a conflict arises, a public official must disclose the conflict and ask to be excused from taking part in the action or decision in question.

The kinds of conflicts the law is concerned with are financial conflicts, ones where the personal financial interests of the official will be affected by a decision the official makes. The law describes a conflict of interest situation as one where:

A public official . . . in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business, unless the effect on the official is no

greater than on other members of the official's business classification, profession, or occupation

Minn. Stat. § 10A.07, subd. 1 (2007).

Senate Rule 57 requires members to follow the procedure set forth in § 10A.07.

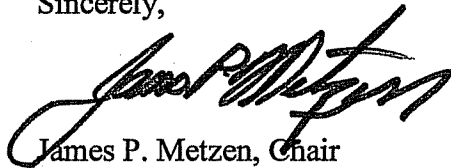
57. CONFLICTS OF INTEREST

A member who in the discharge of senatorial duties would be required to take an action or make a decision that would substantially affect the member's financial interests or those of an associated business, unless the effect on the member is no greater than on others in the member's business classification, profession, or occupation, shall disclose the potential conflict of interest by following the procedure set forth in Minnesota Statutes, section 10A.07.

3. Opinion

You do not have a conflict of interest as author of either of these two bills. Neither of the bills would provide any personal financial benefit to you.

Sincerely,



James P. Metzen, Chair
Subcommittee on Ethical Conduct

JPM

cc: Senator Dennis R. Frederickson
Senator Linda Scheid
Senator Bill G. Ingebrigtsen

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February 21, 2008

The Honorable James P. Metzen
Chair, Subcommittee on Ethical Conduct
Minnesota Senate
322 State Capitol
St. Paul, MN

Dear Senator Metzen:

Pursuant to Rule 55.2 of the Permanent Rules of the Minnesota Senate, I am making this written request for an Advisory Opinion of the Subcommittee on Ethical Conduct of the Senate Rules and Administration Committee. That Rule allows a Member to request advice from the Subcommittee on a possible conflict of interest.

I am asking that the meetings of the Subcommittee regarding these proceedings be held in public. Similarly, I am asking that this request and any advice in response to this request be made public.

Minnesota Statutes (2007 Supplement) Section 10A.07, subdivision 1, as well as Rule 57 of the Permanent Rules of the Minnesota Senate, provide that a potential conflict of interest exists if the Member takes action or makes a decision that:

- (1) substantially affects the Member's personal financial interests or those of an associated business; and
- (2) the effect on the Member is greater than on others in the Member's business classification, profession, or occupation.

Both of these elements must be met in order for a conflict of interest to exist.

As you may know, in April of 2007, I began my position as the Finance Director in the Office of the Sheriff of Hennepin County. In that capacity, I oversee the budget of the Sheriff's Office and supervise the expenditure of the funds appropriated by the Hennepin County Board.

The Sheriff's Office handles mortgage foreclosure sales as provided by Minnesota law. That office also receives requests for criminal background checks on specified

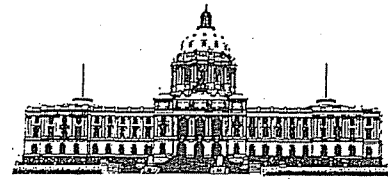
Assistant Minority Leader • Lead Republican on Tax Committee

Representing the Cities of:

Chanhassen, Carver, Chaska, Cologne, Hamburg, Mayer, New Germany,
Norwood Young America, Victoria, Waconia and Watertown

Representing the Townships of:

Benton, Camden, Chaska, Dahlgren, Hancock, Hollywood, Jackson, Laketown, Louisville,
St. Lawrence, San Francisco, Waconia, Watertown and Young America



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individuals and performs those background checks. Quite obviously, I receive no personal benefit – financial or otherwise – from activities of the Sheriff's Office related to mortgage foreclosures or criminal background checks, and the Hennepin County Sheriff's Office wouldn't be affected any differently by the passage of the bills described below than would any other Sheriff's Office in the State of Minnesota.

My request for an Advisory Opinion relates to two bills that I have introduced in the 2007-08 Legislative Session.

-- SF 294 was introduced on January 25, 2007. This bill deals with the issue of the expungement of certain criminal records under defined terms and conditions. The bill was referred to the Judiciary Committee. Prior to my taking the position with the Sheriff's office, the bill passed out of the Judiciary Committee and the Business, Industry, and Jobs Committee. The bill was then sent to the Finance Committee, where it still resides.

-- SF 2984 was introduced today, February 21, 2008. This bill provides for the reinstatement of a foreclosed mortgage under certain conditions. This bill has been referred to the Judiciary Committee.

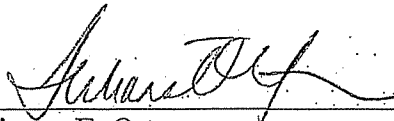
My question to the Subcommittee is whether there is any conflict of interest for me to advocate for these two bills, as chief author, in view of my employment in the Hennepin County Sheriff's office.

With the recent resignation from the Senate of Senator Tom Neuville, I am aware that the Subcommittee on Ethical Conduct has a vacancy in its committee complement. It is my understanding that the Subcommittee on Committees of the Senate Rules and Administration Committee has not yet met to make the appointment to fill the open position. Once that appointment is made and the Subcommittee on Ethical Conduct has its full complement of four Members, I would ask that the Subcommittee meet as soon as possible to consider this request for advice.

I am available to the Subcommittee to present any additional information or testimony on these circumstances.

Thank you for your consideration; I look forward to the recommendations of the Subcommittee.

Sincerely,



Julianne E. Ortman
State Senator