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SPRINGFIELD

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FILE NO. S-1035

COUNTIES:
Corrupt Practices Act

Honorable James R. Burgess, Jr.
State's Attorney
Champaign County
Court House
Urbana, Illinois 61801

Dear Mr. Burgess:

I have your request for an opinion as to whether a county board member whose child is an employee of a bank in which county funds have been deposited has an interest in the bank depository contract which is prohibited by section 3 of the Corrupt Practices Act. (Ill. Rev. Stat. 1973, ch. 102, par. 3.) I will assume, for purposes of this opinion, that the particular bank was designated by the county board as a depository pursuant to the provisions of section 4 of "AN ACT concerning county treasurers" (Ill. Rev. Stat. 1974 Supp.,

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ch. 36, par. 20); that the county board member held his office and his child was employed at the time of the making of the contract; and that the child is unemancipated.

In opinion No. S-575 I advised on the situation where the county board designates a bank as a depository of county funds pursuant to section 4 of "AN ACT concerning county treasurers, etc.". Therein, I advised, inter alia, that a violation of section 3 of the Corrupt Practices Act, supra, occurs when a county board member's spouse or minor child is a stockholder in a bank. I can see no distinction between a minor child as a stockholder and as an employee. Therefore, for the reasons discussed both below and in opinion No. 575, I am of the opinion that under the assumptions set forth above, a county board member whose child is employed by a bank which the county board has designated a depository, has an interest in the contract of deposit and that such interest is prohibited by section 3 of the Corrupt Practices Act.

In Bock v. Long, 3 Ill. App. 2d 691, the Illinois Appellate Court, First District, construed a statute somewhat similar to section 3 of the Corrupt Practices Act. The statute, section 2(14) of article VI of "AN ACT relating to alcoholic

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liquors" (Ill. Rev. Stat. 1973, ch. 43, par. 120) reads, in pertinent part, as follows:

"No license of any kind issued by the State Commission or any local commission shall be issued to:

* * *

(14) Any law enforcing public official, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;"

The facts of Bock v. Long, 3 Ill. App. 3d 691, were that a liquor licensee was the wife of a city police captain who worked part-time in his wife's tavern without pay, as bartender and janitor. In holding that the discharge of the husband from his position on the police force was justified because he was in violation of section 2 of article VI of "AN ACT relating to alcoholic liquors" (Ill. Rev. Stat. 1973, ch. 43, par. 120), the court said at page 693:

"We do not read the broad prohibition of the statute to be limited to interests which are proprietary in nature, but perceive the language to include non-proprietary pecuniary interests as well. Under this view of the statutory prohibition we must conclude that the evidence pre-

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sented before the Board was sufficient to support its determination that respondent was possessed of a forbidden interest in the enterprise. To hold otherwise would be to close our eyes to the natural and probably sharing of assets and liabilities which constitutes a characteristic of the family unit as it is known to our society. * * * (emphasis added.)

Parent and child as members of a family unit share a reciprocal, natural and moral duty to support and care for one another. (McMahon v. Auger, 357 P. 2d 374 (Ida. 1960).) In Illinois the expenses of the family and the education of the children are chargeable upon the property of the husband and wife. (Ill. Rev. Stat. 1973, ch. 68, par. 15.) Thus a parent has a pecuniary interest in his child earning money, which gives the board member an interest in the employment in the bank and the contract of deposit.

Very truly yours,

A T T O R N E Y G E N E R A L