

## Advisory Opinion

IECDB AO 2003-13

September 11, 2003

Charles "Chaz" Allen  
1438 North 7th Ave. East  
Newton, Iowa 50208

Dear Mr. Allen:

This opinion is in response to your letter of August 26, 2003, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B and rules in Iowa Administrative Code chapter 351.

### FACTUAL STATEMENT:

We understand you request this opinion in your capacity as Government/Regulatory Relations Specialist for Iowa Telecom and as a potential candidate for Mayor of Newton. You advise us that you are a registered lobbyist with Iowa Telecom and a mayoral candidate and that you are concerned with any potential conflict of interest and are interested in potential safeguards to avoid a conflict.

### QUESTIONS:

1. Is there a conflict for you to be a registered lobbyist and the Mayor of Newton?
2. Is it a conflict if Iowa Telecom were to appear before the City of Newton?

### OPINION:

The Board first notes that its jurisdiction in answering your questions concerning the lobbying laws is limited to activities before the executive branch of government and does not speak to any House or Senate rules involving legislative lobbying.

In answer to your first question, nothing in Iowa Code chapter 68B prohibits you from being a mayor and a registered lobbyist for a private sector business at the same time. Under Iowa Code section 68B.2(13)"b"(3) local elected officials "while performing the duties and responsibilities of office" are exempted from the definition of "lobbyist." Thus, you would not have any additional responsibilities to register or file reports as a lobbyist on behalf of the city if you are

elected mayor.<sup>1</sup> You would still need to register and file reports on behalf of Iowa Telecom if you lobby on behalf of that organization.

As far as a procedural safeguard, when discussing issues with executive branch officials and executive branch employees you should make it clear when you are lobbying on behalf of Iowa Telecom as opposed to when you are representing the interests of Newton as the Mayor.

Turning to your second question, Iowa Code section 68B.2A prohibits governmental officials from engaging in any outside employment or activity that is in conflict with their official duties and responsibilities. Under the law, you would be prohibited from using any resources of the city to benefit Iowa Telecom. <sup>2</sup> In addition, if Iowa Telecom were to appear before the city you would be required to “publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty” involving Iowa Telecom. <sup>3</sup>

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
1st Vice-Chair Geraldine Leinen  
2nd Vice-Chair Gwen Boeke  
Mark McCormick  
Bernie McKinley  
Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel

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<sup>1</sup> It should also be noted that the Iowa lobbying laws do not apply to activities before political subdivisions of government. Therefore, persons discussing issues with local governmental officials do not have to register and file reports as lobbyists based solely on those activities.

<sup>2</sup> Again, you would want to make sure when dealing with executive branch personnel to separate discussions involving the city from discussions involving Iowa Telecom.

<sup>3</sup> See Iowa Code section 68B.2A(2)“b.” That section also defines “official action” and “official duty.”