



Attorney General

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Robert R. Corbin

August 25, 1988

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Darryl B. Dobras, President
DBD Investments
818 West Miracle Mile
Tucson, AZ 85705

Re: I83-098 (R83-099)

Dear Mr. Dobras:

You have requested an Attorney General's opinion concerning a potential conflict of interest issue arising from your service as a member of the Arizona State Liquor Board. Specifically, your concerns center on whether it is a conflict of interest for you to take part in a decision of the State Liquor Board when the liquor license applicant or license holder is a client of the Territorial Bank, a state-chartered bank operating in Tucson, of which you are Chairman of the Board of Directors.

A.R.S. § 38-503.B states in relevant part that any public officer who has a substantial interest in any decision of a public agency shall make known such interest in the official records of the agency and shall refrain from participating in any manner in such decision.

"Substantial interest" is defined by A.R.S. § 38-502.11 as any pecuniary or proprietary interest, either direct or indirect, other than a remote interest. Thus, it appears from these statutes that if you have a substantial pecuniary or proprietary interest in a decision before the State Liquor Board, that is not a remote interest, you are disqualified from participation in the Board's decision in that case. As both a stockholder and the Chairman of the Board of Directors, you have pecuniary and proprietary interests in the Territorial Bank. Whether those interests are substantial is a matter of statutory application.

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"Remote interest" is also defined by A.R.S. § 38-502. Its definition identifies specific instances the Arizona Legislature believed involved an interest too remote to constitute a conflict of interest. A 1972 Arizona Court of Appeals case held that unless the interest at issue fell within the statutorily specified situations declared to be remote interests, a public officer's interest would be substantial. Yetman v. Naumann, 16 Ariz. App. 314, 492 P.2d 1252 (1972).

In light of Arizona's conflict of interest statutory provisions and the case discussed above, your interest as Chairman of the Board of Directors of the Territorial Bank will be a substantial interest precluding you from decisionmaking involving clients of that bank, unless your interest in such matters falls within the specifically identified situations described by A.R.S. § 38-502.10 as remote interests.

Review of A.R.S. § 38-502.10 remote interest situations not affecting a public officer's decisionmaking abilities, indicates that your interest as Chairman of the Board of Directors of the Territorial Bank with respect to clients of the Territorial Bank appearing before the State Liquor Board is not one of the situations identified as a remote interest.

Therefore, A.R.S. § 38-503.B precludes you from participating in any manner as a member of the State Liquor Board in a decision involving a client of the Territorial Bank since by statutory definition, your interest in such matters is a substantial interest.

Sincerely,



BOB CORBIN
Attorney General

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