

## *Editorial*

### **What We Learned as Children**

The Mississippi Ethics Commission recently issued Advisory Opinion No. 12-058-E. The question MEC considered was: **"May a member of a state board of trustees and/or businesses in which he holds a material financial interest provide services to an institution governed by the board?"**

The MEC's "Brief Answer" was: **"No. The receipt of medical insurance benefits by the trustee or business where the insurance premiums are paid by the university or its athletic foundation would violate Section 109, Miss. Const. of 1890, and Section 25-4-105(2) and (3)(a), Miss. Code of 1972. Additionally, an agreement between a university and a business owned by a trustee creates an appearance of impropriety and should be avoided in compliance with Section 25-4-101."**

The report *initially* concluded that Mr. Douglas Rouse, Member of the Institutions of Higher Learning, is in violation of the ethics law. I'll get to the meaning of *initially*, later. The MEC decision is well-reasoned: readers should take a look at the facts, analysis, and the law as reported by MEC. [It is only a few pages long](#). Here's some of MEC's reasoning.

Section 109, Miss. Const. of 1890, and its statutory parallel, Section 25-4-105(2), Miss. Code of 1972, both quoted above, **prohibit a member of a public board [like Mr. Douglas Rouse] from having any direct or indirect interest in a contract which is funded or otherwise authorized by that board during his or her term or for one year thereafter.** Frazier v. State, ex rel. Pittman, 504 So.2d 675, 693 (Miss. 1987). A contract exists when payment is made in exchange for goods or services, whether the contract is reduced to writing or not. See Section 25-4-103(f), above. **Payment of public funds by the university will have been authorized by the board of trustees. If not specifically authorized, then the board will have allocated appropriations to the university, which constitutes an authorization of those expenditures.** See Frazier at 693, citing Cassibry v. State, 404 So. 2d 1360, 1366-67 (Miss. 1981).

As I said, a sound decision.

I haven't forgotten: We'll get to what I meant by *initially*, soon.

After reviewing the facts, analysis, and conclusions that MEC published, there seems to be a fundamental question which may be overlooked in the relatively complex MEC reasoning process.

Does a well-educated person, like Douglas Rouse, need direction about what's right and wrong? Here's another way of putting the fundamental question: What is with well-educated people who

need guidance from an "Ethics Commission" to tell them when they are rigging business to, in effect, gain exclusive, monopoly profits?

An understanding of fundamental fairness works quite nicely with the behavior so obviously wrong as Mr. Rouse's oversight responsibilities as a Member of the Institutions of Higher Learning and his highly lucrative, business relations with the an institution of higher learning, the University of Southern Mississippi.

Mr. Rouse should have learned the relevant ethics lesson when he was nine, ten, or eleven at the oldest.

Where?

Sandlot baseball is a simple world where kids learn real ethics. Here's how it happens. Everyone gets together for a sandlot baseball game. It's summer and school's out. No umpire or referee. One of the players, call him Con, says he'll call the balls, strikes, and outs all the while playing the game. Wouldn't you laugh in his face?

The reason is obvious: Con was looking to rig the game for himself and his pals, "partners" in adult terminology. After we ran out of laughter and got ready to toss the bat to see who batted first, Con said he was not kidding; that he would take his ball and bat and leave if he didn't get to call the balls, strikes, and outs. The opposing players declined to play. A simple but correct decision. While winning may not be everything, the ability to compete fairly is important.

Con and his pals eventually returned to play, but not with the right to call the balls, strikes, and outs. That's what Mr. Rouse either didn't learn, chooses to ignore, or forgot.

The lesson from a sandlot is easy to apply as a doctor and partner in a big-league professional partnership and it is troubling that Mr. Rouse seems to need an Ethics Commission tell him he can't rig the game. Even if Mr. Rouse does not believe he is rigging the game -- even if other doctors actually have an opportunity to acquire business from the University of Southern Mississippi -- it just doesn't have the appearance of a level playing field.

Now, for an answer why I said MEC *initially* concluded that Mr. Douglas Rouse violated the ethics laws. I may have been too quick to praise the MEC for a sound decision, simple and clear-cut as it was.

Why?

Because the MEC has chosen to "reconsider the decision." That's right: they're reconsidering their decision. Reconsider means "consider something again, especially, for a possible change of decision regarding it."

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