

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2023-12

Approved: March 7, 2023

Re: Garrett S. Mancieri

QUESTION PRESENTED:

The Petitioner, a member of the Woonsocket City Council, a municipal elected position, who in his private capacity is a member of the Board of Sponsors of Autumnfest, a private non-profit organization, requests an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the City Council's discussions and decision-making relative to Autumnfest.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Woonsocket City Council, a municipal elected position, who in his private capacity is a member of the Board of Sponsors of Autumnfest, a private non-profit organization, is not prohibited by the Code of Ethics from participating in the City Council's discussions and decision-making relative to Autumnfest.

The Petitioner is a member of the Woonsocket City Council ("City Council"), to which he was elected in November 2022. In his private capacity, the Petitioner is a member of the Board of Sponsors of Autumnfest ("Organization"), a non-profit entity that organizes and holds a festival each year in the City of Woonsocket ("City") during the Columbus Day weekend. The festival includes music, crafts, food, amusement rides, and a parade.¹

According to the Organization's bylaws, its membership consists of the five persons that encompass the Board of Sponsors, including: a) the Mayor of Woonsocket or their designee; b) the President of the City Council or their designee; c) the President of the Rotary Club of Woonsocket, Rhode Island, Inc. or their designee; d) the President of the Blackstone Valley Tourism Council or their designee; and e) a former General Chairperson of the Organization chosen by a majority of the Steering Committee. Pursuant to the bylaws, the Board of Sponsors is responsible for: a) the approval or disapproval of any amendment, changes, additions, or deletions to the bylaws; b) the monitoring of the general corporate affairs to ensure that overall performance of the Steering Committee of the Organization is in every respect in compliance with the bylaws; c) the development of a cooperative attitude with state officials, state department heads, and government agencies, as well as with city and surrounding community governments. Additionally, the members of the Board of Sponsors serve as the Organization's Election Committee that selects and appoints individuals to the Steering Committee. The Petitioner

¹ See <https://autumnfest.org/> (last visited on February 9, 2023).

represents that the Board of Sponsors meets once or twice per year to review and approve any changes to the bylaws proposed by the Steering Committee and to vote on new members of the Steering Committee. The Petitioner further represents that the Board of Sponsors has no financial duties and cannot influence the financial objectives of the Organization.

The Steering Committee is described by the Organization's bylaws as consisting of ten to twenty-five persons who manage the property, business, and affairs of the Organization. The bylaws specify, among others, the following responsibilities of the Steering Committee: to review and approve any contracts in excess of \$3,000; to amend the bylaws at any of its meetings, subject to the approval of the Board of Sponsors; to elect from among each other the officers of the Organization including a General Chairperson, Vice Chairperson, Secretary, and Treasurer; and to designate a Finance Committee to be responsible for the Organization's financial affairs. The Petitioner represents that he was a member of the Steering Committee for six years and served as General Chairperson for three of those years. The Petitioner further represents that in 2023 he did not seek re-appointment to the Steering Committee; however, he was voted by the Steering Committee to the Board of Sponsors based on his former service as General Chairperson. The Petitioner explains that the Steering Committee is the equivalent of the Board of Directors of other organizations and that the members of the Steering Committee are listed as directors on the Organization's annual reports filed with the Office of the Secretary of State.

The Petitioner states that the Organization appears once per year before the City Council to seek permission to use City property for the festival. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits him from participating in the City Council's discussions and decision-making relative to matters impacting the Organization or on matters in which the Organization appears before the City Council.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if a public official has reason to believe or expect that he, any person within his family, his business associate or any business by which he is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. Section 36-14-7(a). The Code of Ethics also prohibits a public official from using his public office, or confidential information received through his public office, to obtain financial gain for himself, his family member, his business associate, or any business by which he is employed or which he represents. Section 36-14-5(d). Additionally, a public official must recuse from participation when his business associate appears or presents evidence or arguments before his state or municipal agency. Commission Regulation 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002). A business associate is defined as "a person joined together with another person to achieve a common financial objective." Section 36-14-2(3). A person is defined as "an individual or a business entity." Section 36-14-2(7).

The Ethics Commission has stated that persons are "business associates" of the entities for which they serve as either officers or members of the Board of Directors, or in some other leadership position that permits them to affect the financial objectives of the entities. If a public official holds such a leadership position, the Ethics Commission has required that the official recuse himself or

herself if the interests of the organization would be affected by an action to be taken by his or her public agency. See, e.g., A.O. 2014-14 (opining that the Director of the Rhode Island Department of Environmental Management (“RIDEM”), who was also a Director of the Rhode Island Boy Scouts (“Boy Scouts”), was a business associate of the Boy Scouts and, therefore, was required to recuse from participating in any RIDEM decisions that would financially impact the Boy Scouts, as well as from any matters in which a Boy Scout representative appeared to represent the organization’s interests); A.O. 2012-28 (opining that a Tiverton Planning Board member, who was also a member of the Board of Directors of the Tiverton Yacht Club (“TYC”), was a business associate of the TYC and, therefore, was required to recuse from participating in the Planning Board’s consideration of a proposed amendment to the Tiverton Zoning Ordinance as requested by the TYC).

In the instant matter, the limited responsibilities of the Board of Sponsors do not allow it to affect the financial objectives of the Organization. Rather, it is the Steering Committee that manages the property, business, and affairs of the Organization. The Steering Committee reviews contracts in excess of \$3,000, elects the officers of the Organization, and designates a Finance Committee to be responsible for the Organization’s financial affairs. Accordingly, based on the Petitioner’s representations above, and consistent with the applicable provisions of the Code of Ethics and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner is not a business associate of the Organization and, therefore, is not prohibited by the Code of Ethics from participating in the City Council’s discussions and decision-making relative to Autumnfest.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Related Advisory Opinions:

A.O. 2014-14

A.O. 2012-28

Keywords:

Business Associate