

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2023-36

Approved: October 17, 2023

Re: Karen D. Pinch

QUESTION PRESENTED:

The Petitioner, the Town Administrator for the Town of Richmond, a municipal appointed position, requests an advisory opinion regarding whether the Code of Ethics prohibits her from hiring JN Jordan Plumbing to perform the plumbing and mechanical work on a home that she and her spouse are planning to build in the Town of South Kingstown, given that the owner of JN Jordan Plumbing is employed by the Town of Richmond as the Zoning Official and as the Plumbing and Mechanical Inspector.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the Town Administrator for the Town of Richmond, a municipal appointed position, is not prohibited by the Code of Ethics from hiring JN Jordan Plumbing to perform the plumbing and mechanical work on a home that she and her spouse are planning to build in the Town of South Kingstown, notwithstanding that the owner of JN Jordan Plumbing is employed by the Town of Richmond as the Zoning Official and as the Plumbing and Mechanical Inspector.

The Petitioner is the Town Administrator for the Town of Richmond (“Town”). She represents that she and her spouse are planning to build a home in South Kingstown and would like to seek a price quote from JN Jordan Plumbing (“JN Jordan”) for completing the plumbing and mechanical work on the new home. The Petitioner explains that JN Jordan has a reputation as an outstanding plumbing firm that has performed work on homes that have been featured on the television program “This Old House.” The Petitioner states that JN Jordan is owned by Josh Jordan (“Mr. Jordan”) who is employed by the Town as the Zoning Official and as the Plumbing and Mechanical Inspector. The Petitioner, further states that, as a Town employee, Mr. Jordan is directly supervised by the Town Building Official and that the Petitioner does not direct Mr. Jordan’s daily work. The Petitioner represents that under the Town Charter, the Town Council is required to “[a]ppoint and remove Town employees, including department heads.” She adds that the Town Charter also gives the Town Administrator the authority to “discipline and suspend town employees, including department directors, provided that the Town Administrator should immediately notify the Town Council of such discipline or suspension.” Given this set of facts, the Petitioner seeks guidance regarding whether she and her spouse may retain JN Jordan to perform the plumbing and mechanical work on their new home.

Commission Regulation 520-RICR-00-00-1.4.4 Transactions with Subordinates (36-14-5011) (“Regulation 1.4.4”) prohibits individuals subject to the Code of Ethics from engaging in a

financial transaction, including participating in private employment or consulting, with a subordinate over whom he or she exercises supervisory responsibilities in the course of his or her official duties. A “subordinate” is defined as “an employee, contractor, consultant, or appointed official of the official’s or employee’s agency.” Regulation 1.4.4(C).

However, Regulation 1.4.4’s prohibition does not apply if the subject financial transaction “is in the normal course of a regular commercial business or occupation[.]” See Regulation 1.4.4(A)(1). In Advisory Opinion 2019-32, the Ethics Commission opined that a member of the Westerly School Committee, who in her private capacity owned and operated a professional design and print business, could fulfill orders placed by individual coaches or staff members of the local public school who were considered her subordinates because such transactions would have been undertaken in the normal course of her company’s regular commercial business.¹

Here, Mr. Jordan is the Petitioner’s subordinate. The Petitioner and her husband would like to request a price quote from, and potentially hire, Mr. Jordan’s company to provide the plumbing and mechanical work on their new home, services that Mr. Jordan’s company regularly provides in the normal course of business. Accordingly, based on the Petitioner’s representations, the relevant provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from hiring JN Jordan to perform the plumbing and mechanical work on her new home provided, however, that the Petitioner does not receive any special discount or preferential price based on her position as Town Administrator. Further, should the Petitioner hire Mr. Jordan’s company, she and Mr. Jordan will become business associates. Thus, the Petitioner is advised that she will be required to comply with all of the conflict of interest provisions of the Code of Ethics relative to business associates including, but not limited to, recusing from any matter that will financially impact Mr. Jordan or pertain to his employment and supervision, until such time that the business associate relationship between them has concluded. The Ethics Commission is not in a position to opine whether the Petitioner’s recusal from Mr. Jordan’s supervision will be feasible and/or how her recusal would be addressed. The Petitioner is advised to seek further guidance as warranted.

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:

520-RICR-00-00-1.4.4 Transactions with Subordinates (36-14-5011)

Related Advisory Opinions:

A.O. 2019-32

Keywords:

Transactions with Subordinates

¹ The transactions at issue in Advisory Opinion 2019-32 were also initiated by the petitioner’s subordinates, which is an additional exception found in Regulation 1.4.4(A)(2).