

ADVISORY OPINION NO. 89-43

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

A City manager

OPINION SOUGHT

Whether a City Manager can purchase and hold a revenue bond that helps finance certain improvements to the city's water and sewer system?

OTHER FACTS RELIED UPON BY THE COMMISSION

A city manager is responsible for the financial and administrative functions of the City's water and sewer system.

Her responsibilities have recently included all city work preparing for the issuance of City Water and Sewer Revenue Bonds to finance certain improvements to the utility.

When \$5,000,000 worth of bonds were issued in February, 1989, the City Manager purchased one bond with a face value of \$5,000. The bonds were issued on the open market and initial sales were taken from a number of brokerage companies. They are insured as to both principal and interest by Municipal Bond Investors Assurance Company.

The city is obligated to make monthly debt service payments to the West Virginia Municipal Bond Commission until the city bonds are retired or refunded in full.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-4(w) states in pertinent part that the provisions of this section shall apply to violations of this chapter occurring after the thirtieth day of September, one thousand nine hundred eighty-nine...

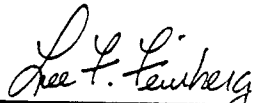
West Virginia Code 6B-2-5(d)(1) states in part that no public employee...may be a party to or have an interest in the profits or benefits of a contract with the governmental body over which he or she has direct authority or with which he or she is employed.

West Virginia Code 6B-2-5(d)(2) states in pertinent part that...an elected public official or public employee...shall not be considered as having an interest in a public contract when such a person has a limited interest as an owner, shareholder or

creditor of the business which is the contractor on the public contract involved. A limited interest for the purposes of this section is an interest not exceeding ten percent of the partnership or the outstanding shares of a corporation or thirty thousand dollars, whichever is the lesser...

ADVISORY OPINION

The Commission would note that the date of purchase was February, 1989 and the Commission is only empowered to render an advisory opinion on matters occurring after September 30, 1989. (See 6B-2-4(w)). Therefore, the Commission is unable to render an advisory opinion on this matter.



Chairman