

BOISE CITY ETHICS COMMISSION

Advisory Opinion

07-01

FACTS: Boise City Police Employee is a vendor for a product in the safety field called “Cricesos Cards.” The encrypted cards have read-only passwords that allow first responders quick access to a person’s vital information. The employee has purchased 300 cards with his personal credit card, which continues to accrue interest charges. The Boise Police Department may be interested in purchasing the cards from the employee for its officers. The employee does not personally profit from the sale of the cards as any profit from the cards is given to the Police Activities League (P.A.L). Cost of the card to the vendor is \$8.00, however, would be sold for \$20 per card.

QUESTION: May the employee sell the product to the Police Department or would doing so be a violation of the Boise City Ethics Code?

OPINION: Employee may not sell the product to the City of Boise.

ANALYSIS: The Commission considered the following City Code provisions in reaching its decision:

1. Boise City Code § 1-11-09

Boise City Code § 1-11-09 prohibits city employees from having any personal beneficial interest, either directly or indirectly, in any expenditure, purchase, sale or contract made by the City. The section further provides that the City Council or the Ethics Commission may waive compliance when it finds that the interest is de minimis or remote and that waiver will serve the best interest of the City.

In this case, while the employee would not receive a personal beneficial interest in the form of profit, the employee would be receiving a personal beneficial interest, by the removal of the employee’s debt for the purchase of the cards and the interest that continues to accrue on that debt. Thus, this provision would prohibit the employee in question from selling the cards to the City’s Police Department unless the City Council or Ethics Commission determined that the interest was de minimis or remote.

De minimis is defined in Boise City Code § 1-21-04(B) as a trivial benefit that does not exceed a value of fifty dollars (\$50.00). An officer’s interest in a contract is deemed de minimis if it is a remote interest. A remote interest is also defined in Boise City Code § 1-21-04 and Idaho Code § 59-201A as the interest of an unsalaried officer of a nonprofit organization; that of an employee of a contracting party where the compensation consists entirely of fixed wages; that of a landlord or tenant of a contracting party; or that of a

holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.

If the City were to purchase the 300 cards from the employee, the cost would be \$6,000.00. This amount is more than the \$50.00 de minimis limit and therefore the Ethics Commission is unable to waive compliance with Boise City Code 1-11-09 based upon that exception. Further, the interest would not be remote because the employee currently owns the cards and would indirectly benefit from the sale of the cards to the City as discussed above.