



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

DECLARATORY RULING 93-A

Application of Code to Company's Proposal to Hire  
Spouse of State Employee

The petitioner, Acme Bookbinding Company, Inc., seeks to employ as a sales representative Peter Merrill-Oldham, whose wife, Jan Merrill-Oldham, is the Head of the Preservation Department at the Homer Babbidge Library at the University of Connecticut. One of Ms. Merrill-Oldham's responsibilities is management of the relationship between the University Libraries on the Storrs campus and the commercial library binderies with which they do business, including Acme. Acme, which proposes to exclude its University of Connecticut accounts from Mr. Merrill-Oldham's responsibilities, has requested a Declaratory Ruling on the effect, under the Code of Ethics for Public Officials, of hiring Ms. Merrill-Oldham's spouse.

Pursuant to Conn. Gen. Stat. §1-84(i), neither Mr. Merrill-Oldham nor a "business with which he is associated" may enter into any contract with the state, valued at \$100 or more, unless the contract has been awarded through an open and public process. However, the term "business with which he is associated" applies only to an entity of which one is a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five percent or more of the total outstanding stock of any class. Until such time as Mr. Merrill-Oldham acquires such an interest or position, Acme's ability to continue to do business with the University will not be affected by §1-84(i). It is not anticipated that Mr. Merrill-Oldham himself would seek to enter into any contract with the State.

Although Acme is not currently a business with which Mr. Merrill-Oldham is "associated" within the meaning of the Code, Ms. Merrill-Oldham would face an impermissible conflict of interest if she were to find herself in a position to take an official action which would result in a direct and specific financial gain or loss to her husband, as opposed to his employer. This limitation would preclude her participation in the preparation, negotiation or award of a contract for binding services if her husband would, as a result, receive a commission, raise, or other financial benefit, or suffer a financial loss as the result of a decision to award a contract to a competitor. See Conn. Gen. Stat. §§1-85 and 1-86. In addition, under Conn. Gen. Stat. §1-84(c), any action Ms. Merrill-Oldham might take to obtain a financial gain for her

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husband would constitute an illegal use of office. However, Acme has represented that Mr. Merrill-Oldham will not be paid any commissions or sales-related bonuses based upon accounts with the University of Connecticut. It is therefore unlikely that Mr. Merrill-Oldham's proposed employment would engender a conflict of interest for Ms. Merrill-Oldham. If a conflict were to arise, Ms. Merrill-Oldham would be unable to take official action on the matter, and would be required to prepare a written statement pursuant to Conn. Gen. Stat. §1-86.

Provided Mr. Merrill-Oldham will be excluded from participation in Acme's accounts with the University of Connecticut and provided, further, that Acme does not become a business with which he is "associated" within the meaning of the Code, the Commission concludes that Mr. Merrill-Oldham's hiring will not significantly affect either Acme's ability to continue to do business with the University or Ms. Merrill-Oldham's ability to carry out her current responsibilities. If Mr. Merrill-Oldham's responsibilities or his relationship with Acme should change, the Commission recommends that such information be submitted for further consideration.

By the order of the Commission,



Christopher T. Donohue  
Chairperson

Dated March 1, 1993