

“Date”

Melissa M. Grand
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
450 Laurel Street, 21ST Floor
Baton Rouge, LA 70801

RE: Ethics Board Docket No. 2021-263

Dear Ms. Grand:

The Louisiana Board of Ethics, at its May 7, 2021 meeting, considered your request on behalf of Sunset French Immersion School, Inc. (“Sunset”), for an advisory opinion as to whether President of the Board of Sunset could act as guarantor on a loan to Sunset French Immersion School Foundation, Inc. (“Foundation”) which will serve as a support organization for Sunset.

FACTS PROVIDED

You provided that Jerry Domengeaux serves as the President of the Board of Sunset, a charter school in Sunset, Louisiana. You stated that the Foundation is a nonprofit corporation separate from Sunset, that intends to construct a building on immovable property that it will purchase and lease the building to Sunset to be used as the school site. You stated that the Foundation will make all decisions regarding the construction, including location, design and contractor. You stated that the lender providing financing to the Foundation requires a guaranty on the loan and Jerry Domengeaux has offered to provide a certificate of deposit and personal guaranty as collateral on the loan to the Foundation. You stated that Jerry Domengeaux is not a board member of the Foundation and he will not receive anything of economic value from Sunset, the Foundation, or any other source in connection with the loan to the Foundation.

You further provided that Jerry Domengeaux’s son, Christopher Chad Domengeaux is employed at Lambright Construction, Inc. (“Lambright”), which has been awarded a contract to perform construction on the property to be acquired by the Foundation. You stated that Christopher Domengeaux has no ownership interest in Lambright and does not serve on the board for either Sunset or the Foundation.

Finally, you provided that Jerry Domengeaux owns Domengeaux’s Lumber Depot, Inc. (“Lumber Depot”). Lumber Depot may sell material to Lambright during the construction of the building for the Foundation.

LAW

La. R.S. 42:1113B prohibits an appointed member of any board or commission, member of his immediate family, or legal entity in which he has a controlling interest from bidding on or entering into any contract subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1114A provides that other than a legislator, each public servant and each member of his immediate family who derives any thing of economic value, directly, through any transaction involving the agency of such public servant or who derives any thing of economic value of which

Ms. Melissa M. Grand

"Date"

Page -2-

he may be reasonably expected to know through a person which (1) is regulated by the agency of such public servant, or (2) has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction under the supervision or jurisdiction of the agency of such public servant shall disclose the following: (1) The amount of income or value of any thing of economic value derived; (2) The nature of the business activity; (3) Name and address, and relationship to the public servant, if applicable; and (4) The name and business address of the legal entity, if applicable.

CONCLUSION

The Board concluded and instructed me to inform you, the Code of Governmental Ethics (Ethics Code) would prohibit Jerry Domengeaux from providing collateral and personal guaranty on the loan to the Foundation. Since Sunset would be leasing the building from the Foundation, Jerry Domengeaux would be in any way interested in the lease payments from the charter school to the Foundation. Should Sunset choose not to enter into the lease with the Foundation, the Foundation may not be able to honor the terms of the loan. Jerry Domengeaux's allegiance to Sunset as a Board Member may be in conflict with his need to insure that the Foundation keep the building leased to Sunset or risk defaulting on the loan.

The Board further concluded and instructed me to inform you, the Ethics Code would prohibit Lumber Depot from selling material to Lambright. Because Lambright would be constructing a building to be leased by Sunset, Jerry Domengeaux is in any way interested in selling material to Lambright which has entered into a contract or other transaction with the Foundation.

Finally, the Board concluded and instructed me to inform you, the Ethics Code prohibits Christopher Domengeaux from working on the construction project involving the lease between Sunset and the Foundation. Christopher Domengeaux can be employed by Lambright, as long as he does not perform services in connection with the construction of the building involved in the lease between Sunset and the Foundation. Also, since Christopher Domengeaux receives income from Lambright, he would be required to file a financial disclosure statement pursuant to La. R.S. 42:1114 each year by May 15TH disclosing any thing of economic value he has received from Lambright while Lambright has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction under the supervision or jurisdiction of Sunset and Jerry Domengeaux is on the Board of Sunset. Enclosed is a copy of La. R.S. 42:1114 and a copy of the disclosure form.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Ms. Melissa M. Grand
“Date”
Page -3-

Sincerely,

LOUISIANA BOARD OF ETHICS

Gregory L. Thibodeaux
For the Board

DISCLAIMER
*This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only,
and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.*