STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS
P. O. BOX 4368
BATON ROUGE, LA 70821
(225) 219-5600
FAX: (225) 381-7271
1-800-842-6630
www.ethics.state.la.us

January 11, 2012

Mr. Barry E. Ward
Post Office Box 94214
Baton Rouge, Louisiana 70804

Re: Ethics Board Docket No. 2011-1692

Dear Mr. Ward:

The Louisiana Board of Ethics, at its December 16, 2011 meeting, considered your request for an advisory opinion as to whether your wife and daughter may renew their producer licenses and education materials with the Office of Licensing and Compliance for the Department of Insurance while you serve as the Deputy Commissioner for the Office of Licensing and Compliance. You stated that the Louisiana Insurance Commissioner recently appointed you as the Deputy Commissioner for the Office of Licensing and Compliance for the Department of Insurance. In such capacity, you stated that you oversee the sections which license insurance producers, insurance companies and related entities.

In regards to the licensing section, you stated that renewals are done electronically and is comprised of an online application, continuing education hours, and an electronic payment check. Once the requisite information is received, unless the applicant acknowledges a criminal problem, the application is handled by the licensing computer system and the renewal occurs electronically.

You stated that your wife and daughter are licensed producers. You stated that your wife was licensed in 1992 and your daughter in 2009. You stated that their licenses renew every two years. According to their birthdays, they both renew in August. You stated that they renewed prior to your appointment and will not have to renew again until after August 2013.

In addition, you stated that since 2004, your wife has been an approved provider for both pre-licensing and continuing education. The Office of Licensing and Compliance oversees the approval of educational programs. You stated that your wife is required to submit a class curriculum for review and approval prior to it being presented to producers for educational credit and must resubmit the curriculum to the Office of Licensing and Compliance every three years for renewal purposes.

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would <u>not</u> prohibit your wife and daughter from renewing their producer licenses with the Office of Licensing and Compliance while you serve as the Deputy Commissioner of the

Office of Licensing and Compliance. La. R.S. 42:1113A prohibits a public servant, a member of his immediate family or a legal entity in which either owns a controlling interest, from bidding on or entering into a contract, subcontract or transaction that is under the supervision or jurisdiction of the public servant's agency. In *Hill v. Commission on Ethics for Public Employees*,453 So.2d 558, (La. 1984), the Supreme Court concluded that a member of the Cosmetology Board could renew a license for a beauty shop and a license to practice cosmetology since those renewals were "routine and mechanical." Routine and mechanical was defined as something issued in accordance with the rules and procedures of the agency and not with the approval of the Board. Based on the procedures and requirements for renewal of producer licenses, as long as the online application is filled out, the required continuing education courses are completed, and the renewal fee is paid, the license is renewed. Thus, it appears that the renewal of your wife and daughter's license would be "routine and mechanical." Therefore, there is no violation of La. R.S. 42:1113A if your wife and daughter renew their producer licenses with the Office of Licensing and Compliance.

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would prohibit your wife from renewing her educational materials with the Office of Licensing and Compliance while you serve as the Deputy Commissioner. See La. R.S. 42:1113A above. Since the renewal of the educational materials involve a review and approval process, such renewal does not appear to be "routine and mechanical." Further, the Board concluded, and instructed me to inform you, that La. R.S. 42:1111C(2)(d) would prohibit you from receiving compensation, through your wife, for the provision of continuing education to persons who have a business, contractual or financial relationship or who conduct operations or activities that are regulated by the Office of Licensing and Compliance. La. R.S. 42:1111C(2)(d) prohibits a public servant and a legal entity in which the public servant exercises control or owns an interest from receiving any thing of economic value for services rendered to or for any person during his public service unless such services are neither performed for nor compensated by any person who has or is seeking to have a contractual, business or financial relationship with the public servant's agency or who conducts operations or activities that are regulated by the public employees' agency.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as 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 as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Tracy M. Barker
For the Board