DATE

Mr. Stewart Eastman
71630 Maple Street
Abita Springs, Louisiana 70420

RE: Louisiana Board of Ethics Docket No. 2021-1055
Advisory Opinion

Dear Mr. Eastman:

The Louisiana Board of Ethics ("Board"), at its February 4, 2022 meeting, considered your request for an advisory opinion as to whether the Code of Governmental Ethics ("Code") would prohibit you from submitting your work of art to the Abita Springs Trailhead Museum ("Museum") independent selection committee to be juried and potentially sold at the En Plein Air exhibition.

FACTS PROVIDED

You stated that you are a member of the Museum's Board of Directors. The Museum is owned and operated by the Town of Abita Springs. However, the Museum is mainly run independently by the Board of Directors and has no paid employees.

Every year the Abita Springs Trailhead Museum holds an art exhibit, called En Plein Air ("Exhibit"), with the next one scheduled for the spring. The Exhibit features local artists or artists from the surrounding area, who paint various landscapes, townscapes, etc. Artists apply to have their work included in the Exhibit. Their work is juried by a selection committee that is separate from the Museum Board of Directors. The Directors do not know or have any authority to select an artist's work to be displayed.

The works of art that are chosen are available for purchase by the public during the exhibition. The sale proceeds go to the artists with a commission going to the Museum. You stated that you are an artist who would like to submit your work of art to be exhibited and potentially sold at the spring Exhibit.

LAW

La. R.S. 42:1102(23) defines a "Transaction involving the governmental entity" as any proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other such particular matter which the public servant or former public servant of the governmental entity in question knows or should know: (a) Is, or will be, the subject of action by the governmental entity. (b) Is one to which the governmental entity is or will be a party. (c) Is one in which the governmental entity has a direct interest.

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.

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

ANALYSIS

La. R.S. 42:1113(B) prohibits an appointed member of any board or commission … from bidding on or entering into or being in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member. You are an appointed member of the Museum's Board of Directors. A "transaction involving the governmental entity" includes "any… application, submission, [or] request for a ruling or other determination" where the "governmental entity has a direct interest." La. R.S. 42:1102(23). The submission of your artwork to the Museum for consideration, potential selection, and potential sale would be considered a transaction that is under the supervision of your agency – the Museum. The Museum has a direct interest in the transaction, given that the Museum is responsible for selecting the participating artwork (through the selection committee) and the Museum takes a commission from the proceeds of exhibition artwork sold.

CONCLUSION

The Board concluded, and instructed me to inform you, that based on the facts presented, the Code prohibits you from submitting your work of art to the Museum's independent selection committee to be juried and potentially viewed and sold at the En Plein Air exhibition.

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 Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,
LOUISIANA BOARD OF ETHICS

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LaToya D. Jordan
For the Board