



**MUNICIPALITY OF ANCHORAGE**  
**Board of Ethics**

Date: October 30, 2024

To: Thea Agnew Bemben<sup>1</sup>

From: Municipal Board of Ethics

Re: Response to Request for Advisory Opinion 2024-02

Dear Special Assistant Bemben:

On August 29, 2024, you asked the Board of Ethics (the board) for an advisory opinion on whether your ownership stake in Agnew Beck Consulting, Inc., a consulting firm, would violate any ethical rules or limit the firm's ability to compete for municipal contracts after you start municipal employment. This advisory opinion constitutes the findings and conclusions of the board, based on the information you provided in your written request and during the board's public meeting on September 19, 2024. If material facts were not disclosed or were misrepresented, the opinion is without force or effect.<sup>2</sup> The board concluded that you must disclose your private interest before taking any official actions related to the consulting firm. Additionally, you must be recused from taking any official actions in which you have a prohibited conflict of interest, and you may not use nonpublic information to benefit Agnew Beck Consulting. If those conditions are adhered to, your situation does not raise ethical concerns or violate the code of ethics. The chair informed you of the board's decision on September 19, 2024, and you started municipal employment on September 30, 2024.

**FACTS OF THE REQUEST**

On September 30, 2024, you joined the mayor's office as a special assistant working with members of the mayor's team to tackle interrelated problems of health, homelessness, equity, and safety.

You are a twenty percent owner of Agnew Beck Consulting, Inc. You described this business as a consulting firm based in Anchorage, with offices in Soldotna, Idaho, and California. You said the firm has been in business since 2002 and its mission is to work

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<sup>1</sup> Requests for advisory opinions are normally confidential under AMC 1.15.150D and the board's responses are normally published in redacted form. In this case, Special Assistant Bemben waived confidentiality.

<sup>2</sup> AMC 1.15.150B reads as follows: "In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board and may not be sanctioned for acting in compliance with the board's advice so long as the facts remain substantially unchanged from those represented to the board in the inquiry."

alongside the firm’s clients to grow healthy, thriving, and equitable communities. Your work within the firm focused on behavioral health, housing and homelessness, and family wellness. You said most of the firm’s clients are community-serving organizations, federal, state, tribal, and municipal governments, as well as local non-profits and businesses.

You said that once you start municipal employment, you will take a leave of absence from the consulting firm and will have no operational control over the firm during your municipal employment. You also plan to sign an agreement with the other owners of the firm to transfer your shares to the firm and be allowed to repurchase them when your municipal employment is complete.

You described the type of contracts that Agnew Beck might potentially be involved with as doing data analysis for the Health Department, conducting community meetings and gathering information, or developing plans to disburse alcohol tax funds, as examples. You said that recusing yourself from any official actions that would come up involving Agnew Beck would not impact your ability to fulfill your municipal duties. You do not anticipate that your municipal duties will involve you being involved in awarding contracts to consulting firms like Agnew Beck for consulting services related to health, housing, or homelessness. Rather, you will be performing such work personally for the municipality as a municipal employee. If any matters involving Agnew Beck or a business competitor arise, you plan to disclose your ownership interest in Agnew Beck and recuse yourself from situations where you have a prohibited conflict of interest.

## **DISCUSSION**

As a public servant and municipal employee, you are authorized to request an advisory opinion regarding the applicability and interpretation of the ethics code related to actions, rights, or conflict personal to you as the inquirer.<sup>3</sup> Therefore, the board has jurisdiction to issue this advisory opinion.

“A conflict of interest is a conflict between the private interest of a public servant and the official responsibilities of the public servant in the context of an official action.”<sup>4</sup>

“Official action” means participation in a process, including deliberation, in which a decision or recommendation is reached.<sup>5</sup> A public servant may participate in actions in which the public servant has a “minor or inconsequential” private interest, but may not participate if the public servant has a “substantial” private interest.<sup>6</sup> Determination of whether a private interest is substantial is based on balancing two factors:

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<sup>3</sup> AMC 1.15.150A Current, former, or potential public servant may request an advisory opinion regarding the applicability and interpretation of this chapter related to actions, rights, or conflict personal to the inquirer.

<sup>4</sup> AMC 1.15.060D

<sup>5</sup> AMC 1.15.060C

<sup>6</sup> AMC 1.15.060D

- (a) *Size*: The significance of the private interest in terms of financial amount or personal importance; and
- (b) *Connection*: The link between the official action and the private interest.<sup>7</sup>

Interests that are large in size and direct in connection are substantial (prohibited) conflicts of interest. Interests that are insignificant in size and remote/indirect in connection are not prohibited.<sup>8</sup>

Here, your interest in Agnew Beck Consulting as a longtime owner does give you a personal interest in the firm. Your plan to take a leave of absence from the firm and not be involved in its operations during your municipal employment is prudent and does eliminate potential ethical issues that could arise through contemporaneous employment. But because you have a close connection to the firm and anticipate repurchasing your stock after your municipal employment is concluded, you still have a type of potential private interest that must be disclosed before you take any official actions involving the firm.

As a municipal employee, if you are faced with a situation that could potentially benefit or harm Agnew Beck Consulting either directly or indirectly, you must disclose your connection to the firm to your department director or designee, which in your case is the municipal manager. Your disclosure must be made before you take any official actions. The municipal manager then determines whether your potential conflict is substantial in the context of the official action being taken. If you or the municipal manager have any specific questions as a situation arises, you may seek additional advice from the municipal attorney, an individual appointed as a municipal ethics officer, or you may seek another advisory opinion from the board. Because most of the work you will be doing for the municipality does not implicate the private interest, the board does not believe this situation raises ethical concerns so long as you disclose the interest if a potential conflict comes up, and then do not participate in any official actions in which you have a prohibited conflict of interest.

Finally, as a special assistant in the mayor's office, you might gain access to confidential or nonpublic information that could be used by a non-profit organization or consulting firm to gain an advantage in competing for contracts or grants. AMC 1.15.120 prohibits public servants from using, disclosing, or releasing confidential or nonpublic information gained through the person's municipal position unless authorized by law or court order. Your plan to take a leave of absence from the firm and not be involved in the firm's operations avoids the appearance of any violations of this provision.

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<sup>7</sup> AMC 1.15.060D.2

<sup>8</sup> AMC 1.15.060D.3

## CONCLUSION

The board concludes that your association with Agnew Beck Consulting does not create ethical issues during your service as a municipal employee, so long as you properly disclose the interest and do not participate in any official actions in which you have a prohibited conflict of interest. The fact that you are a municipal employee does not prevent the firm from competing for any contracts or grants that it would otherwise seek. The board wishes to thank you for your dedication to ethical principles in raising this issue with the board before you started your municipal employment.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Daniel Bellerive", is written over a blue oval-shaped line.

Daniel Bellerive, Chair  
Forrest Nabors  
Patrick Teagarden

Copy to:

- (1) Requestor
- (2) Municipal Clerk for electronic publication