

## **Office of Government Ethics**

**89 x 15 -- 09/19/89**

### **Letter to a Designated Agency Ethics Official dated September 19, 1989**

Your letter of August 30, 1989, requested this Office's views on proposed [agency] waivers, pursuant to 18 U.S.C. § 208 (b)(1), for two employees of your agency. Based on the facts which you have outlined, we believe it would not be an abuse of discretion to approve these waivers.

We understand that a program advisor in [the agency] is expected to participate personally and substantially in deliberations on matters affecting the financial interests of state governments and municipalities. [The employee's] wife owns a general obligation bond issued by [a] state which is valued at \$50,000, and general obligations bonds issued by [a] city worth \$50,000.

You propose granting waivers under 18 U.S.C. § 208 (b)(1), to allow [the employee] to participate in particular matters of policy which apply to states and municipalities generally. You note that such participation is not likely to have a measurable impact on the market value of an individual state or municipality's bonds; and that, unlike corporate stocks, state and municipal bonds are fixed obligations, the security and market value of which are less likely to be affected by general [agency] rules and policy.

In the other case, a staff assistant at [the agency] may be called upon to participate personally and substantially in legislative matters affecting the oil and gas industry. [The employee] is the income beneficiary of a one-seventh interest in a widely-diversified trust with [a] Bank, which currently holds 9.4% of the trust's assets in stock [of two companies in that industry] valued at \$108,975, which produces 9.8% or \$5,340 of the trust's annual income. Incidentally, the trust's statement of investments, which your letter references as an enclosure, was not received by this Office. We understand that distribution of trust income is in the sole discretion of two trustees, based on the beneficiaries' needs, and that the seven beneficiaries have an equal remainder interest in the trust, which will become possessory twenty-one years after the deaths of family members in [the employee's] mother's generation. [The employee's] income

share from the trust for 1988 and 1989 was reported on her financial disclosure statement as being from \$5,001 to \$15,000. You propose granting a waiver under 18 U.S.C. § 208 (b)(1), to allow [the employee] to participate in particular matters of rule-making and policy affecting the oil and gas industry generally.

Under the circumstances outlined, we are of the opinion that it would not be an abuse of [the agency's] discretion to grant these waivers. We note that, by their terms, the proposed waivers are not applicable to these employees' participation in matters where the entities in which they hold the described financial interests are specific parties. Additionally, the waivers for [the employee] would be ineffective if his wife were to acquire additional general obligation bonds of states or municipalities; and the waiver for [the employee] would be ineffective if the value of oil and gas stocks in the Bank trust exceed 15% of the total trust assets.

Sincerely,

Frank Q. Nebeker  
Director