

VERMONT STATE ETHICS COMMISSION
Ethics Advisory Opinion Request 18-01

¹To: **Brian Leven, Executive Director, Vermont State Ethics Commission**
Fr: **Paul Burns, Executive Director, Vermont Public Interest Research Group**
Dt: **August 31, 2018**
Re: **Request for an advisory opinion from the Ethics Commission**

In January of this year, VPIRG filed an inquiry with the Ethics Commission concerning Gov. Phil Scott's relationship with the Dubois construction company. In response, we were informed that because the complaint did not allege a violation of a code of conduct or law in effect at that time, there was essentially nothing the Commission could do.

By this letter, on behalf of the Vermont Public Interest Research Group, I am requesting an advisory opinion of the Ethics Commission concerning matters outlined below.

First, Gov. Scott maintains an ongoing financial interest in the Dubois Construction business. According to mandatory financial disclosures required by the passage of Act 79 in 2017, Gov. Scott reported that Dubois Construction paid him \$75,000 last year. This was the result of a financing deal that Gov. Scott entered into when he sold his share of the business before he took office. <https://www.burlingtonfreepress.com/story/news/politics/2018/06/07/would-governors-miss-vermonts-new-ethics-law/644302002/>

Second, Dubois Construction has entered into at least one substantial contract with the State of Vermont since Gov. Scott took office. This contract is through Buildings and General Services and is worth up to \$250,000. The duration of the contract is from June 15, 2017 to June 14, 2019. <http://bgs.vermont.gov/sites/bgs/files/files/purchasing-contracting/contracts/33703%20DUBOIS%20CONSTRUCTION.pdf>

Third, Attachment C of the current BGS contract with Dubois is the Standard State Provisions for Contracts and Grants. Section 20 of Attachment C states that:

No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

Fourth, since the time of VPIRG's initial inquiry, the Ethics Commission has adopted a "**State Code of Ethics: General Principles of Governmental Ethical Conduct**." Under Section 1, General Principles, the Code states:

(1) A public official shall not have a conflict of interest or engage in any business, employment, transaction or professional activity, or incur any obligation that is in conflict with the performance of their duty as a public official.

Section 3 of the Code states in part:

(3) A public official shall not solicit or accept any gift or other item of monetary value, other than a campaign contribution, from any person or entity seeking official action from, doing business with, or conducting activities regulated by the public official's agency...

Section 7 of the Code states:

(7) A public official shall avoid any actions that create a potential or actual conflict of interest with their official duties or that they are violating the law, these General Principles of Governmental Ethical Conduct, or other governmental codes of conduct. A public official should avoid the appearance of a potential or actual conflict of interest.

Given the fact that the governor has an ongoing financial relationship with a business that has received one or more large contracts from the State since Gov. Scott took office, VPIRG now requests an advisory opinion from the Commission as to whether these facts present a conflict according to Vermont's new Code of Ethics.

If you require any additional information from me at this time, please feel free to contact me. Thank you very much for your consideration of this matter and I look forward to receiving the Commission's opinion.

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