

February 13, 2007

Re: AO-07-19

The ethics commission has reviewed the situation you described in explaining why you will have trouble disclosing certain information required by law to be disclosed. You are the named beneficiary of your spouse's stock holdings and the stock options, all of which are part of your spouse's compensation arrangement with the spouse's employer. You have stated that you do not have access to the number of shares held by your spouse, the nature of the existing stock options, or the number and value of the shares held by your spouse.

The problem arises because of two provisions of the ethics law dealing with the information that must be disclosed annually. Section 7-6-104 (c) requires that you list specific information about any business interests in which you have an interest. As the named beneficiary of your spouse's interest, you have an "equitable economic interest," within the meaning of §7-1-101(15)(i). Section 7-6-104(d) requires disclosure of these same types of interest in any entity that does business with the county. Since your spouse's employer does considerable business with the county, you are required to disclose the nature of your equitable economic interest in under this section as well.

Because you have stated that you do not have access to this information, and are therefore unable to provide the required disclosures, the ethics commission advises that in lieu of providing this information, you may submit a statement under oath, referenced in Schedule B and attached to your disclosure form. The statement should provide the following information: the name of your spouse's employer, the nature of the business that the employer does with the county, the fact that your spouse owns stock and stock options in the employer entity in which you have a non-controlling beneficial interest in this stock and these options, and the reason why you do not have access to the information that is required to be disclosed.

Although the situation you have described concerning your lack of access to this information is quite unusual, the ethics commission does not require the disclosure of information that you do not have and cannot obtain without unusual or extreme effort. The disclosure of the existence of this interest, regardless of its value, complies with the spirit of the law. The commission will presume that the interest is of significant value. You have stated that you will not participate in any matter that comes before the board on which you serve, that involves the interests of your spouse's employer. While your disclosure statement is a public document, the public rarely looks at this information. For this reason, should a matter come before your board that involves this entity, you should publicly disclose the interests of you and your spouse promptly when you recuse yourself from participating in the matter. Recusal requires that you absent yourself from that portion of any meeting in which this matter is heard, and from any confidential deliberations or vote on this matter.

The commission also advises that this alternative disclosure applies only to you and the specific interest that you have described. This type of alternative disclosure is not available without the prior approval of the ethics commission.

Thank you for your inquiry. If you would like help in preparing the statement required by this letter, or if you have any other questions, please contact me.

Anne Arundel County Ethics Commission

By: _____
Betsy K. Dawson, Executive Director