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Christian D. Menefee
Harris County Attorney

January 11, 2021

VIA E-MAIL (opinion.committee@oag.texas.gov)
Office of the Attorney General of Texas
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0395-KP
FILE# ML-48920-21
I.D.# 48920

Re: Request for an opinion regarding the extent to which Local Government Code Chapter 171 and/or Government Code Chapter 573 applies where the Harris County Attorney's father-in-law is a partner at a law firm that contracts with the County

Dear Attorney General Paxton:

I respectfully request an official opinion from your office on the matters described in this letter and accompanying brief. I was sworn in as Harris County Attorney on January 1, 2021. My father-in-law holds an ownership interest in a law firm that has existing contracts with Harris County for the collection of delinquent receivables. I believe these facts implicate Section 171.004 of the Local Government Code (also known as Texas's "conflict of interest statute").

I am taking the following steps to comply with the letter and spirit of Section 171.004. On January 7, 2021, I filed with the Harris County Clerk's Office an affidavit disclosing my father-in-law's interest in the firm and that his interest is imputed to me for conflicts purposes under Section 171.004. A copy of the as-filed version of the affidavit is attached to this request as **Exhibit "A"**. I plan to maintain an affidavit on file with the Clerk's office on an ongoing basis as long as (1) the firm continues to contract with, and/or seek to obtain contracts with, the County; and (2) my father-in-law remains with the firm. I will update the affidavit as appropriate throughout my tenure as Harris County Attorney.

I will abstain from participating in relevant decisions regarding the County's contracts with private law firms for the collection of delinquent receivables. These facts present a unique situation as I have not identified any cases or Attorney General opinions discussing whether under Section 171, only the local public official must abstain from relevant decisions, as opposed to his entire office. Further complicating the matter is the fact that the Harris County Attorney's Office is legally **required** to "select" special counsel for suits brought by the county. Tex. Loc. Gov't Code § 89.001 ("the county attorney **shall** select the special counsel" and "**shall** determine the terms and duration of employment of the special counsel, subject to [commissioners] court's approval") (emphasis added).

I therefore propose the following: as long as the current potential conflict exists, I will abstain from participating in any decision to execute, continue, extend, renew, or terminate Harris County's contracts with any private firm (including the firm of which my father-in-law is a partner) seeking to provide receivable collection services to the County. I will designate a senior attorney in the Harris County Attorney's Office as the individual authorized to exercise the office's decision-making authority on these matters. I will refrain from participating in that process or otherwise discussing the matters with that attorney or anyone else. I believe this to be a reasonable abstention measure to ensure compliance with the letter and the spirit of Section 171.004. I welcome your office's guidance on this point.

Given these facts and my proposed course of action, I request an official opinion on the following two questions:

- I. Does my proposed course of action sufficiently comply with the affidavit and abstention requirements of Local Government Code Chapter 171?**
- II. Does Government Code Chapter 573 (also known as Texas's "nepotism statute") apply to the facts described in this request?**

A corresponding brief is attached to this request as **Exhibit "B"**.

Sincerely,



Christian D. Menefee
Harris County Attorney