

Notice of Hearing on Request for Ethics Interpretation EI-2011-003

Notice is hereby given that the Ethics Commission will hold a hearing to consider a Request for Ethics Interpretation numbered EI-2011-003 at its regular meeting presently scheduled for September 16, 2011. The Commission will accept both oral and written comments prior to or at the hearing to be held at the September meeting. Staff comments and/or drafts of the ethics interpretation will be available on the agency's website at www.ethics.ok.gov and, in addition, will be emailed with its agenda to all those on the agency emailing list at least five (5) days before the meeting.

The following question has been asked:

Do the Constitutional Ethics Rules [“the Rules”], Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O. S. 2001, Ch. 62, App. prohibit the Director of a state agency [“Agency Head”] from also serving as a member of the Board of Directors [“the Board”] of a private, for-profit Oklahoma company [“the Company”] if:

1. *the seat on the Board is being offered due to the Agency Head's unique and varied background in the private sector and not because of his or her position in state government;*
2. *the Company is a privately owned limited liability company engaged in investments and management in the automotive, private capital, real estate and oil and gas industries;*
3. *among its activities, the Company partners with other private businesses to provide capital for acquisition or to support growth and expansion; partners with management teams to acquire businesses or divisions of larger companies; partners with private business owners to buy out shareholders, transition ownership to the next generation or provide liquidity to existing shareholders and partners with private businesses to solidify their capitalization in anticipation of significant growth or strategic opportunities;*
4. *the Agency Head and the agency he or she serves has no regulatory authority over the Company;*
5. *the Company does no business with any agency in state government, nor does it have an economic interest in matters before or affecting any state agency;*
6. *the Company does not retain or employ a registered lobbyist;*
7. *the Agency Head will receive compensation from the Company, in addition to his or her state salary, and be reimbursed for transportation, lodging and meals while participating in Board meetings;*

8. *the Agency Head would also serve on the Company's Management Committee, such as the Compensation or Audit Committee. His or her remuneration for service to the Company would be comparable to that of other members of the Board;*
9. *the Agency Head would perform his responsibilities for the Company during times that he or she would not be performing duties to the State of Oklahoma, either after hours or on leave time;*
10. *the Agency Head does not anticipate a conflict to arise between his obligations to the State and those as a member of the Company's Board. Should a conflict arise, the Agency Head plans to disqualify himself or herself and abstain from participating in discussions or actions on the matter either as a state officer or as a Board member. The proposed disqualification and abstention would also apply to a situation where the Agency Head had access to confidential information as the result of his or her position as a state officer that might be of benefit to the Company.*