

STATE OF NEW YORK: COUNTY OF SUFFOLK  
SUFFOLK COUNTY ETHICS COMMISSION

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In the Matter of the Inquiry of

**Colleen West**, President of  
Enright Sten-tel Transcription Services, Inc.

**ADVISORY  
OPINION  
No. 14-2005**

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The Ethics Commission has considered the request of Colleen West, President of Enright Sten-tel Transcription Services, Inc. ("Enright"), for an advisory opinion as to whether a prohibited conflict of interest would be created if Enright is awarded and accepts a contract for medical transcription services from Stony Brook University Hospital. She also requests an opinion as to whether she may enter into contracts with other hospitals in Suffolk County for medical transcription services. In rendering this opinion, the Commission has considered the information provided by Ms. West in her letter to the Commission dated October 14, 2005 and during her appearance before the Commission on October 17, 2005 as well as further information gathered by the Commission's staff in connection with this inquiry.

Ms. West is the wife of County Executive Steve Levy who took office in January 2004. She has owned and operated Enright Sten-tel Transcription Services, Inc., which has its offices in Sayville, New York, for over seven (7) years. Enright provides transcription services primarily to hospitals,

large medical group practices including doctors, nurses and clinics, as well as to any corporate environment that has a need for transcription services. Medical personnel who utilize Enright's services telephone its web-based system and dictate their reports which are then transcribed and typed by Enright's typists, many of whom are independent contractors. Following an editing process, the reports are downloaded by the dictator via the internet. As an example, Ms. West indicated that Enright currently has a contract with Bellevue Hospital in New York City for medical transcription services which are provided in the above manner..

Enright recently responded to a Request for Proposal (RFP) from Stony Brook University Hospital ("University Hospital") for medical transcription services. The County Executive has advised Ms. West that University Hospital and the County of Suffolk have a contractual relationship for various medical services. Ms. West therefore seeks an opinion from the Commission as to whether Enright is permitted to enter into a contract with University Hospital for medical transcription services, assuming that she is the successful bidder in response to the RFP, without creating a prohibited conflict of interest in violation of the Suffolk County Code of Ethics. She also seeks an opinion as to whether Enright may enter into contracts with other hospitals that also have contractual relationships

with the County of Suffolk. She indicated both in her letter and during her appearance before the Commission that in the past seven (7) years, she has expended significant amounts of money to initiate, develop and maintain a network of contacts to permit Enright to grow. She further indicates that if Enright is not permitted to work with hospitals in Suffolk County, its opportunities to expand will be severely limited.

The County of Suffolk has contracts with every hospital in Suffolk County as well as with North Shore University Hospital and Winthrop University Hospital. These contracts with hospitals within and outside the county have existed prior to Mr. Levy's election as County Executive. These contracts are an absolute necessity since Suffolk County cannot, on its own, provide the medical services that the hospitals contract to provide.

University Hospital is the only tertiary medical center in Suffolk County and is reported to have an operating budget of approximately \$600 million dollars. Suffolk County's contracts with University Hospital, which total approximately \$4.5 million dollars, make up less than 1% of the hospital's budget. Ms. West informed the Commission that should Enright be awarded the medical transcription contract by University Hospital, the contract will require Enright to utilize the hospital's voice recognition software. Eventually, that software will allow the hospital's medical staff to

have their dictation transcribed without the use of Enright's transcribers. Enright's services will eventually become limited to editing the transcribed reports.

Article XXX of the Suffolk County Code entitled "Code of Ethics", §A30-1 ("Prohibited conflicts of interest"), provides in pertinent part:

§A30-1

- A. No officer or employee of the County of Suffolk, whether paid or unpaid, shall:
- (1) Be or become interested, directly or indirectly, in any manner whatsoever except by operation of law, in any contract or business or professional dealings with the County of Suffolk or any agency thereof.
  - (2) Act as attorney, agent, broker, representative or employee in business or professional dealings with the County of Suffolk or any agency thereof for any person or corporation in which he has a direct or indirect interest.
  - (3) Engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates or might reasonably tend to create a conflict or impair

the proper discharge of his official duties. [As amended by L.L. 8-2002 adopted 4/16/02].

- (4) Invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
- (5) Approve of or enter into, on behalf of the County of Suffolk, any agreement, contract or lease with any other public official whom he personally knows to be another public official or any entity, firm, association or corporation in which it is personally known to the county employee or officer that another public official has an interest, as defined in Subsection B of this section and as limited by the exceptions set forth in Subsection C of this section. [Added 11-1-77 by L.L. No. 40-1977].
- (6) By his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.  
  
[Added by L.L. 8-2002 adopted 4/16/02].

- (7) Pursue a course of conduct which would cause a reasonable person to believe that he or she is likely to be engaged in acts that create a substantial conflict between his or her public duty and his or her private interest or are in violation of any provision of Article 30 of the SUFFOLK COUNTY CHARTER or ARTICLE 30 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE. [Added by L.L. 8-2002 adopted 4/16/02].

In Sub-section (B) of Section A30-1 the Code further provides a definition of "INTEREST" as:

A direct or indirect pecuniary or material benefit accruing to a Municipal officer or employee as a result of a contract or business or professional transaction with the municipality which such officer or employee serves. For purpose of this Article, a municipal officer or employee shall be deemed to have an "interest" in the affairs of:

- (1) His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- (2) A firm partnership or association of which such an officer or employee is a member or employee.
- (3) A corporation of which such officer or employee is an officer, director or employee.

- (4) A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

Enright Sten-tel Transcription Services, Inc., if it is awarded the medical transcription contract with University Hospital, would then have a contractual relationship with an entity that is doing business with or has professional dealings with the County of Suffolk. Therefore, Ms. West, as President of Enright, and County Executive Levy, as her husband, would not have a direct or indirect interest in a contract or business or professional dealings with the County of Suffolk which is prohibited by §A30-1(A)(1). The question that remains, however, is whether Enright's acceptance of private employment with University Hospital or other hospitals in the form of medical transcription services contracts might reasonably tend to create a conflict or impair the proper discharge of the County Executive's official duties, or give reasonable basis for the impression that University Hospital or other hospitals can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he would be affected by the position or influence of the hospitals in light of the existence of such contracts.

The answer to this question centers on whether Enright's contractual relationship with hospitals in Suffolk County would create a significant

appearance of impropriety. In deciding this question, the Ethics Commission is mindful that restraint is required in deciding that an appearance of impropriety exists and such a finding should be reserved for those cases where the circumstances are compelling or the prospective conduct would clearly be contrary to public policy. This is especially true here since finding that an appearance of impropriety exists would preclude Enright from doing business with all hospitals located in Suffolk County.

Under the circumstances set forth above, the Commission is of the opinion that the acceptance by Enright Sten-tel Transcription Services, Inc. of medical transcription services contracts with University Hospital and other hospitals in Suffolk County would not reasonably tend to create a conflict or impair the proper discharge of the County Executive's official duties or give reasonable basis for the impression that a hospital can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he would be affected by the position or influence of a hospital in light of the existence of such a contract. University Hospital's contracts with Suffolk County represent less than 1% of its annual budget and it is the only tertiary medical center in Suffolk County. The County has had various contracts with hospitals within and outside the county since before Mr. Levy was elected County Executive. Said contracts are vital

since the County cannot, on its own, provide the medical services that it contracts for with the hospitals. Ms. West's corporation was in existence and doing business long before County Executive Levy was elected.

Therefore, the Ethics Commission is of the opinion that a prohibited conflict of interest would not be created if Enright Sten-tel Transcription Services, Inc. enters into contract for medical transcription services contracts with University Hospital or other hospitals located in Suffolk County, provided that in applying for or negotiating these contracts on behalf of Enright Sten-tel Transcription Services, Inc., Ms. West is careful to avoid publicizing or drawing attention to the fact that she is the wife of the Suffolk County Executive.

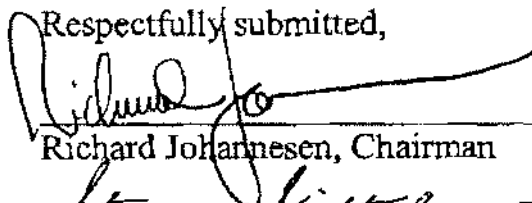
This opinion is specifically limited to the issue of whether a prohibited conflict of interest in violation of Suffolk County Administrative Code §A30-1 would be created if Enright Sten-tel Transcription Services, Inc. entered into a contract for medical transcription services with Stony Brook University Hospital or other hospitals which have contracts with the County of Suffolk to provide medical care. The Ethics Commission offers no opinion as to whether such a contract would violate Executive Orders issued by the County Executive or Standard Operating Procedures applicable to Suffolk County employees with respect to outside employment activities.

The opinion rendered herein, until and unless amended or revoked, is binding upon the Commission in any subsequent proceeding concerning the person who requested it and who acted in good faith in reliance upon it, unless material facts were omitted or misstated by the person in the request for the opinion or in any related supporting documentation.

Dated: Hauppauge, New York

October 24, 2005

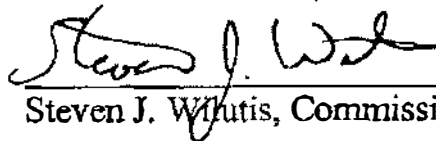
Respectfully submitted,



Richard Johannesen, Chairman



Steven H. Gittelman, Commissioner



Steven J. Whitis, Commissioner