

**2007-489**

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Caption:

**LOUISIANA BOARD OF ETHICS****DATED: June 26, 2008 OPINION NO: 2007-489****RE: In the matter of Warren Gary**

The Louisiana Board of Ethics (the "Board") pursuant to the authority contained in LSA-R.S. 42:1141, conducted a private investigation concerning information that Warren Gary, in his capacity as Chief Criminal Investigator for the Jefferson Davis Parish Sheriff's Office, may have violated Sections 1115B and Section 1116A of the Code of Governmental Ethics (LSA-R.S. 42:1101 et seq.) (the "Code") by virtue of negotiating the purchase of a vehicle from an inmate in the custody of the Jefferson Davis Parish Sheriff's Office, purchasing said vehicle on the inmate's release and profiting from the subsequent sale of the vehicle.

On the basis of information obtained by the Board during the course of the investigation, and with the concurrence of Warren Gary, the Board now makes the following essential:

**I.****FINDINGS OF FACT****1.**

Warren Gary has been employed with the Jefferson Davis Parish Sheriff's Office since July 1, 1992. Mr. Gary has served as Chief Criminal Investigator since 1997.

**2.**

On or about March 20, 2007, a suspect was brought in the Sheriff's Office for questioning in connection with an ongoing criminal investigation.

**3.**

During the questioning of the suspect, the suspect mentioned that she needed to sell her vehicle to avoid repossession of the vehicle by the bank. During the questioning, a price was agreed to by the suspect and Mr. Gary for the purchase of the vehicle by Mr. Gary.

**4.**

On the afternoon of March 20, 2007, the suspect was arrested by the Jefferson Davis Parish Sheriff's Office for the issuance of bad checks.

**5.**

Pursuant to the Sheriff's Office's internal policy, the Sheriff's Office will hold a vehicle

for ten (10) days if the owner is incarcerated and no one is able to pick up the vehicle.

**6.**

On March 29, 2007, Mr. Gary contacted the prison warden to have him inform the suspect that her vehicle would be transferred to a wrecker service the next day following the expiration of the ten (10) day holding period. At that time, the suspect informed Mr. Gary, through the warden, that she was still interested in selling her vehicle.

**7.**

On March 30, 2007, the suspect was released from prison.

**8.**

On March 30, 2007, Mr. Gary purchased the suspect's vehicle for \$8,748.90. Mr. Gary wrote a check to Jeff Davis Bank and Trust Company to pay off the loan amount. The suspect used the remainder of the money, \$3,207.13, to pay the Jefferson Davis Parish District Attorney's Office for the bad checks she had issued.

**9.**

On April 20, 2007, Mr. Gary sold the vehicle for \$15,500.

**II.**

**APPLICABLE LAW**

At issue in this case is Section 1115B and 1116A of the Code. Section 1115B provides:

**§1115. Gifts**

B. No public employee shall solicit or accept, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person, if such public employee knows or reasonably should know that such person:

(1) Conducts operations or activities which are regulated by the public employee's agency.

(2) Has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

Section 1116A of the Code provides:

**§1116. Abuse of Office**

A. No public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself, any other public servant, or other person with any thing of economic value. This Subsection shall not be construed to limit that authority authorized by law, statute, ordinance, or legislative rule in carrying out official duties.

The term “thing of economic value,” as used in the gift and abuse of office prohibition, is defined at Section 1102(22) of the Code.

Section 1102(22)(a) provides:

(22)(a) “Thing of economic value” means money or any other thing having economic value, except promotional items having no substantial resale value; food, drink, or refreshments consumed by a public servant, including reasonable transportation and entertainment incidental thereto, while the personal guest of some person, . . .and includes but is not limited to:

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(iii) Any promise or undertaking for the present or future delivery or procurement of a thing of economic value.

### III.

#### OPINION

It is the opinion of the Board that Warren Gary, in his capacity as the Chief Criminal Investigator for the Jefferson Davis Parish Sheriff’s Office, violated Sections 1115B and 1116A of the Code of Governmental Ethics by negotiating and accepting an offer to purchase a vehicle from a suspect during Mr. Gary’s questioning of said suspect in an ongoing criminal investigation. Mr. Gary sold the vehicle at a later date for a substantial profit. Section 1115B of the Code prohibited Mr. Gary from negotiating and accepting a thing of economic value from a person in his agency’s custody, which is the Jefferson Davis Parish Sheriff’s Office, or from a person that has substantial economic interest that could be affected by the performance or nonperformance of his duties as the Chief Criminal Investigator with the Sheriff’s office. Section 1116A of the Code prohibited Mr. Gary from using the authority or his office or position as an employee of the Sheriff’s Office to obtain things of economic value for himself. The negotiation of a price and terms to purchase a vehicle, which he subsequently sold for a substantial profit, from a suspect upon her release from custody constitutes a thing of economic value.

The Board is authorized to impose penalties up to \$10,000 per violation on finding that a violation of the Code has occurred. In this particular situation, given the facts outlined above, it is the conclusion of the Board that a penalty of \$10,000.00 be imposed on Warren Gary for the above-referenced violation of Sections 1115B and 1116A of the Code.

### IV.

#### DECREE AND ORDER

For the foregoing reasons:

**IT IS ORDERED, ADJUDGED AND DECREED** that the Board finds as a matter of fact and as a conclusion of law that Warren Gary violated Section 1115B of the Code of Governmental Ethics by negotiating and accepting an offer to purchase a vehicle from a suspect in the custody of the Jefferson Davis Parish Sheriff's Department, at a time when he was employed as the Chief Criminal Investigator, which he subsequently sold for a substantial profit.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Board finds as a matter of fact and as a conclusion of law that Warren Gary violated Section 1116A of the Code of Governmental Ethics by using the authority or his office or position as an employee of the Sheriff's Office to negotiate a price and the terms to purchase a vehicle, which he subsequently sold for a substantial profit, from a suspect upon her release from custody of the sheriff's Office.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that a penalty of \$10,000.00, payable to the Treasurer of the State of Louisiana, be and is hereby imposed on Warren Gary for violating Sections 1115B and 1116A of the Code.

By Order of the Board this 26th day of June, 2008.

s/Hank Perret s/John W. Greene

Henry C. Perret, Chairman Judge John W. Greene, Vice-Chairman

s/Herbert V. Baptiste, Sr. s/Joanne C. Ferriot

Dr. Herbert V. Baptiste, Sr. Dr. Joanne C. Ferriot

s/Gwendolyn P. Hamilton s/Michael T. Johnson

Gwendolyn P. Hamilton Michael T. Johnson

s/C. W. Lowrey, M.D. Absent and did not participate.

Dr. Cedric Lowrey Joseph Maselli

s/Ernest Douglas Peterson Absent and did not participate.

Dr. Ernest Douglas Peterson Dr. Dolores R. Spikes

Vacant

### CONSENT

The undersigned (a) stipulates to the facts found by the Board; (b) waives the procedural requirements contained in Section 1141 of the Code; (c) admits that his conduct, as described above, violated Sections 1115B and 1116A of the Code; (d) consents to the publication of this opinion; (e) agrees to comply with the conditions and orders set forth in

this opinion; and (f) agrees not to seek judicial review of the findings and actions taken in this opinion.

s/Warren Gary 4/4/08

Warren Gary Date

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