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OPINION COMMITTEE

**RAY MONTGOMERY**  
DISTRICT ATTORNEY  
LEON COUNTY, TEXAS

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July 23, 2003

**RQ-0084-GA**

FILE # ML-43197-03  
I.D. # 43197

Honorable Nancy Fuller, Chairman  
Opinion Committee  
Attorney General's Office  
P. O. Box 12548  
Austin, TX 78711-2548

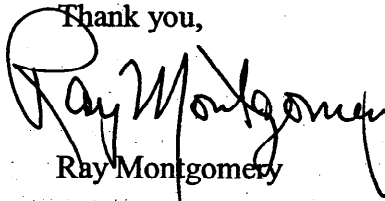
***Re: Question: Can County Judge Sell Fuel and Oil products to Leon County***

Dear Ms. Fuller:

I'm sending you a letter from Ms. Susan Pugh, Leon County Auditor, to me dated July 22, 2003, requesting I ask your office for an opinion as to the legal right of our county judge to sell gas and oil products to Leon County. This opinion was originally requested by an outside C.P.A. firm, Ken Davis, P.C., hired by Leon County Commissioners Court to audit all county offices. Also included is an affidavit from Judge Ryder signed January 27, 2003, and a copy of a motion concerning the continued purchasing of products by the four Leon County precincts from Judge Ryder's company and passed on January 13, 2003. This is all the information I was furnished by Ms. Pugh.

I respectfully request you give us your legal opinion as requested in the above mentioned letter.

Thank you,

  
Ray Montgomery

RM:lr

Enclosure

*cc to Ms. Susan Pugh*

LEON COUNTY, TEXAS  
COUNTY AUDITOR

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P. O. Box 898 • Centerville, Texas 75833 • 903-536-2709

July 22, 2003

Ray Montgomery  
Leon County District Attorney  
P O Drawer 1010  
Centerville, Texas 75833

Re: Request for Attorney General Opinion

Mr. Montgomery:

Leon County has recently been audited by the firm of Ken Davis, P.C. They are requesting that an Attorney General Opinion be given concerning the County Judge selling fuel to the county. LGC 81.002 states that "before undertaking the duties of the county judge or a county commissioner, a person must take the official oath and swear in writing that the person will not be interested, directly or indirectly, in a contract with or claim against the county except: (1) a contract or claim expressly authorized by law; or (2) a warrant issued to the judge or commissioner as a fee of office...."

LGC 171.002 – Substantial Interest in Business Entity describes what constitutes a substantial interest in a business entity. It appears from the outside that Judge Ryder does hold a substantial interest in Ryder Oil.

It is the desire of the outside auditors to obtain an opinion on whether or not it is legal for Judge Ryder to sell fuel and oil products to Leon County. Judge Ryder has filed under LGC 171.004 an affidavit stating the nature of the interest and that he will abstain from participation in any vote dealing with Ryder Oil and Leon County.

Perhaps an opinion such as this has already been handed down and only requires research; however, if this is not the case, it is my desire per the request of the outside auditing team, that an opinion be requested.

Thank you for your immediate attention to this matter,



Susan Pugh  
Leon County Auditor