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## STATE ETHICS COMMISSION

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### **PRESS RELEASE**

State Ethics Commission settles with Albuquerque City Council President Dan Lewis for a violation of the Governmental Conduct Act

*Settlement requires City Council President Lewis to recuse himself in all matters that come before the Albuquerque City Council relating to the Albuquerque-Bernalillo County Joint Air Quality Control Board and any successor entity*

*Albuquerque, NM, May 29, 2024* – The State Ethics Commission has entered into a pre-litigation settlement agreement with Albuquerque City Council President Dan Lewis for violation of the Governmental Conduct Act (“GCA”). The agreement addresses allegations that Councilor Lewis acquired a financial interest in employment with the Albuquerque Pavement Association of New Mexico (“APANM”) when he had reason to believe that his sponsorship and votes on legislation related to the Albuquerque-Bernalillo County Joint Air Quality Control Board (“AQCB”) would directly affect his employment.

The GCA prohibits public officials from acquiring a new financial interest while in office if there is reason to believe the financial interest will be directly impacted by the public official’s governmental acts. Further, the GCA requires that public officials recuse from official acts directly affecting their financial interests.

The settlement agreement highlights two specific legislative actions sponsored and voted on by City Council President Lewis—official acts that the Commission contends he had reason to believe would directly affect his employment with APANM: (i) a resolution imposing a limited moratorium on the rulemaking authority of the AQCB; and (ii) an ordinance repealing the AQCB and replacing that entity with a newly comprised board.

These official acts overlapped with AQCB Petition 2022-03, which proposed stricter air-quality regulations aimed at reducing the health, environment, and equity impacts of air pollution on overburdened communities in Bernalillo County. These official acts also overlapped with City Council President Lewis's negotiation of an offer of employment as APANM's executive director. APANM and several of its members, including Albuquerque Asphalt, Inc., Black Rock Services LLC, HF Sinclair Asphalt Company LLC, and Mountain States Constructors LLC were parties to the AQCB rulemaking proceedings. Further, members of APANM's board of directors had submitted testimony in opposition to the rule sought in Petition 2022-03. Accordingly, there was reason to believe that City Council President Lewis's official acts to dissolve the AQCB would directly impact his employment as APANM's executive director, and therefore, in the Commission's view, City Council President Lewis's negotiating and acquisition of employment with APANM violated Subsection 10-16-4(C) of the Governmental Conduct Act.

To settle this matter, City Council President Lewis has agreed to recuse himself in all matters that come before the Albuquerque City Council relating to the AQCB (or any successor entity to the AQCB), the APANM, or any APANM member, so long as he serves on the Albuquerque City Council and also is employed by APANM.

The GCA requires that public officers treat their government positions as a public trust. As such, government officials may not acquire financial interests where the official has a reason to believe that their official acts will directly affect the financial interest. Furthermore, many public officers in New Mexico are also officers of private businesses and, thus, have fiduciary duties to those businesses. When those businesses seek official government action from those public officers, the public officers have conflicting loyalties—to the public and to their employer. In such circumstances, the Governmental Conduct Act requires that the public officer be disqualified and recuse from the matter.

[Click here to read the Settlement and Release entered into by the Commission and City Council President Lewis.](#)

### **About the State Ethics Commission**

The State Ethics Commission is an independent, constitutional state agency with the authority to enforce civil violations of New Mexico’s governmental ethics and disclosure statutes. The Commission is comprised of three Democratic Commissioners, three Republican Commissioners, and one independent Commissioner who is registered as “decline to state.”

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For more information about the State Ethics Commission, please visit [sec.nm.gov](http://sec.nm.gov).