

A “New” Model Conflicts of Interest Law

By David B. Schacher

In preparing for the COGEL conference in Philadelphia, I decided to collect all the conflicts of interest laws I could find. In doing this research, I found the following law, which seemed a little stilted. Upon further review, I realized that the law must be a translation from the French original.

As I always enjoy meeting my foreign counterparts, I decided to see whether anyone from the French authority administering the law was going to be at the conference, so we could meet for a drink. However, things got complicated when I tried to contact the appropriate authority, and it became quite clear that drinks in Philadelphia were going to be out of the question. The law was not as modern as I had thought. In fact, it had been promulgated by French King Louis IX, in Paris — in 1254.

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Here are particularly interesting portions of the law:

“4. The provincial governor will also promise not to receive a gift, or any favor from any person, whether from that person or through others, in money, silver, or gold, or in any other moveable or immovable things, or in personal kindness, except edibles and drinkables whose value in one week does not exceed the sum of 10 whole parisian coins and that they ... will apply diligence in good faith, that their wives or other relations (sister, brothers, other relatives,

consultants or household staff) not receive such gifts, but if they do, they will compel them to give restitution good faith to the giftgiver, under judgment.

5. They will also promise that they will not borrow from their subordinates, nor from those who have a case in their presence, or they whom they know will live nearby—through themselves or through others—beyond the sum of 20 pounds, which they will return on the day of mutual agreement, within two months; it is also allowed that a creditor may wish to postpone the repayment.

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6. It will also be added ... that the provincial governors will not give or send anything to members of our council, or to their wives, their children, or other household members, or to those whom we will send to visit the land or inquire of their deeds.

13. We will vigorously keep our provincial governors from buying any possessions in their districts, through themselves, or through another, during their administration, or to put forth anything fraudulently without our permission; but if they do, we wish that the purchase be void and that the possessions thus bought be applied to our treasury, if it pleases us...”

In 1247, Louis IX was preparing to lead the Sixth Crusade. In order to depart with a clear conscience and to help ensure the success of the Crusade, the king decided that he had to right all wrongs committed in his name by his provincial governors, who administered the provinces for the king. The most important duties of the provincial governors were to administer justice and to collect revenues, fines and the profits of confiscations for the king. They also supervised the activities of the king’s subordinate officers.

As we know, these responsibilities gave the provincial governors opportunities to use their positions for personal gain. In order to determine what wrongs had been committed in his name, the king sent teams of Franciscan and Dominican monks to conduct a vast investigation (an “enquete”) of his provincial officials. Not surprisingly, the monks uncovered many abuses of power on the part of the provincial governors, including many unwarranted confiscations from widows and orphans. As a result, many of the provincial governors were removed from their posts.

Upon his return from the Sixth Crusade (which could not be termed a success) in 1254, the King decided to promulgate the “Grande Ordonnance,” which is quoted in part above, to ensure that the types of abuses discovered in the enquete seven years earlier would be eliminated. Many

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of the provisions quoted above will appear quite familiar to those of us who work in the ethics field. As in today's conflicts of interest laws, many of the provisions were designed to ensure that the king's representatives were impartial and did not benefit from their official position. An additional provision, which is not found in today's laws, ordered that provincial governors could not leave their districts for fifty days after the end of their terms of office, so that they were around to answer any charges brought against them.

Unfortunately, the Grande Ordonnance appears not to have been completely effective in eliminating abuses by the provincial governors, because it was reissued frequently, with new provisions added. However, the king received a benefit from his just administration of his kingdom that present-day ethics administrators are unlikely to receive as a perk of our jobs — he was canonized by the pope in 1297, a mere twenty-seven years after his death, as St. Louis.

David Schacher is Associate Counsel of the New York City Conflicts of Interest Board. He wishes to express his appreciation to Thomas Colton of the Sleepy Hollow High School Latin Department, Tarrytown, New York, for translating the medieval Latin into English. The translation has been modified for the purposes of this article.
