

**BEFORE THE IOWA
ETHICS AND CAMPAIGN DISCLOSURE BOARD
Pursuant to Chapter 17A and Chapter 68B**

IN THE MATTER OF:)	
)	Case No. <u>2005 IECDB 12</u>
VICKY SALOW,)	
In Her Capacity as an Employee of the Iowa)	NOTICE of HEARING to APPEAL
Dept. of Agriculture and Land Stewardship,)	AGENCY CONDITIONAL CONSENT
APPELLANT.)	for SALE of GOOD or SERVICE

TAKE NOTICE that in response to this Notice of Hearing, a contested case proceeding will be held pursuant to rule 351—6.11 before Presiding Officer Gerald Sullivan and will be governed by Iowa Code section 68B.32C and the relevant rules in 351—Chapter 11.

The hearing is scheduled for 9:30 a.m. on January 16, 2006, and shall be held telephonically. On or before January 10, 2006, the Appellant and the Iowa Department of Agriculture and Land Stewardship (IDALS) shall provide the Board’s Executive Director with the names and telephone numbers of any persons who will be appearing by telephone.

NATURE OF APPEAL

1. Iowa Code section 68B.4 requires an official or employee of a “regulatory agency” to receive consent from the official’s or employee’s agency prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the agency. Pursuant to Iowa Code section 68B.2(23), IDALS is a “regulatory agency.”

2. Iowa Code section 68B.4, as amended by 2005 Iowa Acts, Chapter 76, Sec. 3, requires the Iowa Ethics and Campaign Disclosure Board to adopt rules “specifying the method” that officials or employees may receive consent. The rule for employees is found at 351—6.11. The rule is currently in the process of being amended to include “officials” per the statutory directive.

3. On September 20, 2005, Appellant filed a request for consent to sell “beef cattle and puppies” to the “general public which may include dairy producers” (EXHIBIT 1).

4. On September 29, 2005, IDALS granted conditional consent to the Appellant stating as the rationale: "Employee or spouse may not sell directly or indirectly to people in the dairy industry for which the employee directly inspects or otherwise regulates" (EXHIBIT 2).

5. On November 30, 2005, IDALS notified the Board that the Appellant was appealing the grant of conditional consent pursuant to rule 351—6.11 (EXHIBITS 3 & 3A).

6. Pursuant to rule 351—6.11(6), the appeal is for a Board determination concerning whether the situation complies with the requirements of the state conflict of interest law in Iowa Code section 68B.2A, the requirements of Iowa Code section 68B.4, and rule 351—6.11.

Both parties may present evidence, call witnesses, and enter motions. Copies of all pre-hearing filings should be addressed to the Board's Executive Director who will then provide them to the Presiding Officer:

W. Charles Smithson
Iowa Ethics & Campaign Disclosure Board
510 E. 12th Street, Suite 1A
Des Moines, Iowa 50319
(515) 281-3489
(515) 281-3701 (fax)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this Notice of Hearing to Appeal Agency Conditional Consent for Sale of Good or Service was sent by first class mail, address service requested, on December 19, 2005, to:

Vicky Salow
39826 Skip Level Road
Colesburg, Iowa 52035

Ron Rowland
IDALS
Via e-mail



W. Charles Smithson, IECDB Executive Director

RECEIVED

CTS-05-016



Request for Agency Consent
Sale of Goods or Services by IDALS Employees

Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
Des Moines, IA 50319-0053

Iowa law prohibits an employee of a regulatory agency such as the Iowa Department of Agriculture and Land Stewardship to sell, directly or indirectly, goods or services to any person who is subject to the regulatory agency's (the IDALS's) authority. The regulatory agency (IDALS) can consent to such sales under specified conditions.

Each IDALS employee seeking consent to sell goods or services to a person regulated by IDALS must file a Request for Agency Consent form. This includes the sale of agricultural commodities and livestock. The form must be filed with the employee's division director at least 20 calendar days in advance of a sale. The IDALS has 14 calendar days from the date of the filing of the written request to approve or deny it and issue a written consent or denial. Sales made by an employee's spouse, minor children, or by a farm partnership or family farm corporation in which the employee, the spouse or minor children are members also require consent.

When consent is appropriate, it will be given for up to 12 months. For some employees who are removed from the IDALS regulatory functions, a one-time request for consent may be all that is needed. Consent requests that are approved are required to be filed with the Ethics and Campaign Disclosure Commission and are public records.

Copies of the applicable Iowa Administrative Code sections and Iowa Code chapters may be viewed on the Internet. Portions of those documents are printed on the back of this form. Employees should direct questions to their division director.

Name of employee: Vicky Salow

Division/Bureau: Dept. of Agriculture / Dairy

Address (where response should be sent): [REDACTED]

Description of goods and services: beef cattle and puppies

List of purchasers or list of potential purchasers, if exact purchaser is unknown:

Sell to general public which may include dairy producers.

Please circle Yes or No for each item below:

- Yes No 1) Do your job duties involve providing any inspection or other regulatory oversight over the potential purchasers?
- Yes No 2) Will the sale include advocacy to the IDALS on behalf of the potential purchaser?
- Yes No 3) Will the sale cause you to sell any goods or services to the IDALS on behalf of the purchaser?

Signature of employee: Vicky Salow Date 9-20-05

EXHIBIT
1



IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

PATTY JUDGE
SECRETARY OF AGRICULTURE

Response to IDALS Employee Request for Consent to Sell

Vicky Salow

Division: Consumer Protection & Animal Health
Bureau: Dairy Products Control

Date of Request: 9/20/2005

Request Number: CTS-05-016

This request is: Granted Conditionally

Options: 1) Granted; 2) Granted Conditionally; 3) Denied

If granted, date consent terminates: 10/1/06, unless the employee's job responsibilities change, then a new form must be completed.

Rationale for decision or conditions: Employee or spouse may not sell directly or indirectly to people in the dairy industry for which the employee directly inspects or otherwise regulates.

Date of response to employee: 9/29/2005

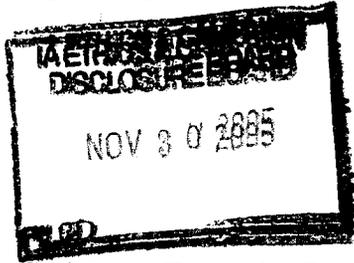
If this request is granted conditionally or denied and the employee desires to appeal the conditions or the denial, the employee may file an appeal with the Iowa Ethics and Campaign Disclosure Board.





PATTY JUDGE
SECRETARY OF AGRICULTURE

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP



To: Charlie Smithson, Executive Director, Ethics and Campaign Disclosure Board

From:  Ron Rowland, Director, Consumer Protection and Animal Health Division

Date: November 28, 2005

Re: Appeal of Vicky Salow—Consent to Sell

Enclosed is a letter of appeal on a consent to sell issue. The appeal comes from Vicky Salow, a dairy inspector within the Department's Dairy Products Control Bureau. Her original request and our decision are on file with your agency as CTS-05-016.

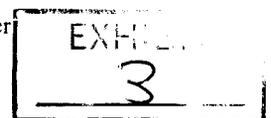
Our committee initially reviewed her request and conditionally granted her request. We provided that she could not sell to any person she is currently inspecting in her job. Upon receiving her appeal, we again reviewed her request and reached the same conclusion. Thus, I am forwarding her appeal to you.

Ms. Salow's appeal does raise some issues which your Board might need to clarify. She is involved in a farming operation with her husband. The sales arise out of this context. While her husband appears to be the primary person in the farming operation, Ms. Salow is also involved in it. We have generally taken the position that such activities were included in the statutory prohibition.

Please advise both Ms. Salow and us of the next steps that need to be taken.

cc: Vicky Salow
Jake Wakefield, Bureau Chief, Dairy Products Control Bureau
Mary Jane Olney

Ethics:2005:Smithson memo-Vicky Salow appeal.doc





Iowa Ethics and Campaign Disclosure Board:

We wish to appeal the condition that we may not sell directly or indirectly to people in the dairy industry for which I directly inspect or otherwise regulate.

Our beef cattle prices are the same as the cattle prices from the Dyersville Sale Barn. When our cattle are ready to sell we take the price off the internet from the Dyersville Sale Barn. We always pay for the trucking expense.

Depending on the year we may also sell big round bales of hay and corn stalks. This year we will be doing that. Dairy producers in the past have purchased bales from us. These prices are also taken off the internet from the Dyersville Sale Barn. We cannot haul these bales too far because we do not have the equipment to load a semi. Therefore not being able to sell to dairy producers in my area takes away these sales. Dairy producers use a lot of hay and bedding.

The puppies are set prices which are \$75.00 for females and \$50.00 for males.

Submitted,

Vucky Salow

