



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 87-2

Affirmative Action Officer Acting as Private Consultant

A former investigator for the Commission on Human Rights and Opportunities (CHRO) has transferred to the Personnel Division, Department of Administrative Services, where he serves as a senior affirmative action officer. He has asked whether he may provide private consulting services with regard to individual complaints of discrimination or denials of equal opportunity for employment. He would accept no cases involving State agencies.

As a CHRO investigator he investigated complaints by persons who claimed to be victims of discriminatory practices or denial of fair and equal opportunity. If his efforts to conciliate a matter failed, and a case proceeded to a hearing, he would testify at the hearing as a witness.

His current State responsibilities involve assisting five State agencies to coordinate their affirmative action activities. He helps them with their affirmative action plans and monitors their compliance with affirmative action. He directs employee discrimination investigations, provides employer/employee relations counseling, and reviews agency contracts for affirmative action compliance. He conducts personnel recruitment through minority and community agencies and reviews job specifications related to the agencies for which he is responsible, recommending changes to avoid discrimination.

He has been asked by private attorneys and individuals if he would furnish them consulting services in discrimination cases. He might assist the victim of alleged discrimination in one case, and a respondent employer or landlord in another. The employers and landlords would be engaged in private business. None would be a State agency. Many of the complaints with which he would be involved would be filed with the CHRO.

The affirmative action officer is a State employee, subject to the Code of Ethics for Public Officials and State Employees (Chapter 10, Part I, General Statutes), and was similarly subject to the Code when he was a CHRO investigator. A State employee may, generally speaking, use information and experience he has acquired in State service for his private financial benefit. He may not, however, use the authority of his governmental position, or confidential information gained

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in and through it, for private benefit. Subsections 1-84(a), 1-84(c), General Statutes. He is also forbidden to accept private employment which will impair his independence of judgment as a State employee or require or induce him to disclose confidential information required in his State position. Subsection 1-84(b), General Statutes.

The affirmative action officer can act as a consultant, without violating the Code of Ethics, provided he observes several restrictions.

He may not use his minority recruitment activities to scout for clients for his consulting business. Subsection 1-84(c), General Statutes. He may not claim that, because of his State position, he can produce better results than another consultant not a State employee, for that would imply that his State position would be used to further his private business, also a violation of subsection 1-84(c). If, as a State employee, he acquires inside or confidential information not being released to the public, he may not use it in his consulting business.

He should not appear before the CHRO on behalf of a client, confining his consulting to office advice and assistance. Particularly because he is a former employee of the Commission, there otherwise would be the danger of inadvertent use of State position in his private business, and too great an opportunity for actual use of position for private benefit.

It does not appear that providing advice and counsel in support of, or in defense of, discrimination cases arising in the private economy should impair his independence of judgment as a senior affirmative action officer.

In his State service the employee has become familiar with the State and Federal laws protecting minorities from discrimination, and has learned the procedures of the agencies administering the laws. This knowledge he may use in a private consulting business so long as applicable provisions of the Code of Ethics are observed.

By order of the Commission,


Julie Peck
Chairperson

Dated March 2, 1987