



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-13

Effect of the Code's Revolving Door Provisions on
Former State Official's Law Firm

The law firm which accepted the former Insurance Commissioner into its partnership after his resignation from state service has asked several questions regarding the application of the revolving door provisions of the Code of Ethics for Public Officials, Connecticut General Statutes, Chapter 10, Part I to the former commissioner and his law firm.

Among the firm's lawyers is a registered lobbyist who lobbies before the Connecticut legislature, the Department of Insurance and other state agencies. The law firm also has ongoing dealings with the Department of Insurance regarding various legal matters.

The law firm asserts that the former Insurance Commissioner has not and will not appear or represent clients before the Department of Insurance for one year after resignation from state service.

Four provisions of the Code of Ethics apply to the Commissioner in his post-service employment with the law firm.

He may never use confidential information gained in his state office for the private financial benefit of anyone. Conn. Gen. Stat. §1-84a.

He may never represent anyone other than the State concerning any particular matter in which he participated personally and substantially as a state servant, if it is one in which the State has a substantial interest. Conn. Gen. Stat. §1-84b(a).

For a year after leaving state service he may not represent anyone, other than the State, for compensation before the Insurance Department concerning a matter in which the State has a substantial interest. Conn. Gen. Stat. §1-84b(b).

If he had participated substantially in the negotiation or award, or supervised the negotiation or award, of a contract, valued at \$50,000 or more, with the law firm within a year before leaving state service, he could not accept employment with the firm for a year after leaving state service. Conn. Gen. Stat. §1-84b(d).

The revolving door limitations, §§1-84a, 1-84b(a), 1-84b(b), and 1-84b(d), are personal to the former state employee or public official. By design (and in contrast with the language of §1-84(d)), these provisions do not prohibit other members or employees of the law firm from appearing before the Insurance Department or other state entities.

Of course, the actions of the law firm and the former Commissioner are also subject to the legal profession's Rules of Professional Conduct. See Rule 1.11, "Successive Government and Private Employment." Both the Ethics Code's revolving door provisions and the Rules of Professional Conduct are designed to "not be so restrictive as to inhibit transfer of employment to and from government." Comment, Rule 1.11.

However, under the Rules of Professional Conduct, while a lawyer/former public official may receive a salary or partnership share established by prior independent agreement, he or she is prohibited from receiving any portion of the fee generated in connection with a matter in which the former official participated personally and substantially as a public officer.

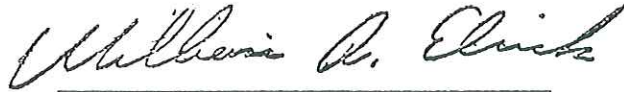
The Ethics Commission believes the same basic reasoning should apply under §§1-84b(a) and (b) of the Code, since it logically follows that if the former public official cannot appear before his former agency, he certainly should not benefit from the labors of his colleagues who do make such appearances. Specifically, the former Insurance Commissioner should receive no portion of any fee: (1) generated in connection with a matter in which he participated personally and substantially while in state service; or (2) generated by any of his firm's appearances before the Insurance Department during the first year after his resignation from state service. The Ethics Code interpretation differs from the Rules of Professional Conduct in that the appropriate government

agency may not waive the former official's conflict as it may under certain circumstances enumerated in the Rules of Professional Conduct.

Thus, the principal legislative purpose behind the Ethics Code revolving door provisions--to prevent the use of contacts, influence, or other insider's advantage gained during state service, to obtain improper benefit in subsequent dealings involving the State's interest -- is served as long as: (1) the law firm does not reveal the identity of the former Commissioner as a representative of the firm or its clients in connection with §§1-84b(a) or (b) matters; and (2) the former Commissioner accepts no share of any fee received by the firm in connection with such matters.

The members and employees of the law firm may continue to lobby and to represent clients before the General Assembly and state agencies, provided that the above restrictions of the Ethics Code are followed.

By order of the Commission,



William A. Elrick
Chairperson

Dated 4-24-89

