



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-16

Application of Conn. Gen. Stat. §1-84b(b)

Roger Bouchard, Chief Fiscal Officer of the Labor Department, has asked the Ethics Commission to issue an advisory opinion explaining how the revolving door provisions of the Code of Ethics apply to his situation. Mr. Bouchard is considering retiring from state service. Upon retirement, he is interested in: 1) managing a shopping center which leases space to the Labor Department and/or 2) purchasing a building which leases space to the Labor Department.

Conn. Gen. Stat. §1-84b(b) states:

No former...state employee shall, for one year after leaving state service, represent anyone, other than the state, for compensation before the department, agency, board, commission, council or office in which he served at the time of his termination of service, concerning any matter in which the state has a substantial interest.

In a previous advisory opinion, the Commission has defined "represent" to mean revealing "involvement in the matter by a physical appearance before the office involved, by submitting a document on which your name appears, by making a telephone call during which you identify yourself, or by other action which discloses to the office that you represent someone in the case." Ethics Commission Advisory Opinion No. 86-11, 48 Conn. L.J. No. 18, p. 1D (October 28, 1986).

Turning to Mr. Bouchard's first question -- whether he can manage a shopping center which leases space to the Labor Department -- as property manager, Mr. Bouchard cannot represent the owner of the building in any disputes with the lessee Labor Department regarding such things as rent, property damage, etc. If these responsibilities can be assigned to another employee of the property management company, it would not be a violation of Conn. Gen. Stat. §1-84b(b) for Mr. Bouchard to serve as property manager for a shopping center which leases space to the Labor Department.

Mr. Bouchard has also asked whether, upon leaving state service, he can purchase a building which leases space to the Labor Department. If Mr. Bouchard doesn't hire someone else, e.g., a management company or an attorney, to manage the building, he may again be in the position of having to deal with the lessee Labor Department on issues such as rent, property damage, etc.

Conn. Gen. Stat. §1-84b(b) prohibits a former state employee from representing "anyone, other than the state" before his or her former agency. There is no exception in the statute for representation of one's own financial interests. The Commission has announced its intent to create two limited exceptions to this prohibition through the promulgation of regulations. Ethics Commission Advisory Opinion No. 89-25 (Amended), 51 Conn. L.J. No. 24, p. 2E (December 12, 1989). The first exception would allow a former state employee to have personal contact with his or her former agency within one year after leaving state service for the purpose of being reemployed by the agency. This exception was deemed to be necessary in order not to hamper the State's ability to carry out essential functions, particularly in light of the large number of retirements from state service resulting from the enactment of P.A. 89-323, An Act Concerning A Supplemental Retirement Benefit For State Employees.

The Commission has also recommended a regulation which would allow a former state employee to represent himself or herself or a member of his or her immediate family before his or her former agency within one year after leaving state service in connection with any matter required by law to be determined by that agency. Without this exception, a former employee of, for example, the Workers' Compensation Commission would not be able to appear before the Commission to collect benefits to which he or she was entitled.

Mr. Bouchard's representation of his interests as a landlord to the Labor Department does not fall into either of these proposed exceptions. There does not appear to be a compelling rationale for an exception in this case. Therefore, Mr. Bouchard would be prohibited under Conn. Gen. Stat. §1-84b(b) from representing his own interests as a landlord before the Labor Department. If Mr. Bouchard hires someone else to represent his interests before the Labor Department, and avoids contacting the Labor Department on his own, he can avoid violation of Conn. Gen. Stat. §1-84b(b)

The restrictions enumerated in this advisory opinion only prevent Mr. Bouchard from appearing before the Labor Department. Conn. Gen. Stat. §1-84b(b) does not preclude him from appearing before any other state agency.

By order of the Commission,

(Rabbi) Michael Menitoff
Rabbi Michael Menitoff

Rabbi Michael Menitoff
Chairperson

Dated 5-7-90

