



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-20

Application of the Code's Post-state Employment
Provisions to the Former Supervisor of Bridges
and Structures

The former Supervisor of Bridges and Structures for the Department of Transportation, Mr. Robert L. Thomas, has asked the Ethics Commission how the post-state employment provisions of the Code of Ethics for Public Officials apply to his current work.

As Supervisor of Bridges and Structures, Mr. Thomas was the head of the Bureau of Highways Bridge Safety and Inspection Section. He is now employed by Greiner, Inc. as Project Coordinator for the inspection of approximately 300 Connecticut bridges which the company is performing under contract with the Department of Transportation. Specifically, Mr. Thomas is responsible for scheduling the bridge inspections and ensuring quality control of the work.

Four post-state employment, i.e., "revolving door", provisions of the Code apply to Mr. Thomas:

He may never use confidential information gained in state service for the financial benefit of any person. 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 one year after leaving state service he may not represent anyone, other than the State, for compensation before the Department of Transportation concerning a matter in which the State has a substantial interest. Conn. Gen. Stat. §1-84b(b).

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

In his request for advice, Mr. Thomas states that his retirement from public service, October 1, 1989, was prior to the selection of Greiner, Inc. to perform the inspections he now coordinates. He also asserts that in his former state position he played no part in the negotiations with or selection of Greiner, Inc. to perform this or any other project. Under these circumstances, §1-84b(d) does not prohibit his current employment with Greiner.

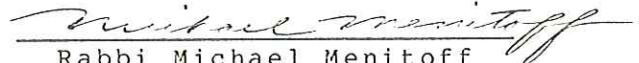
In the performance of his duties as Project Coordinator, Mr. Thomas has no reason or opportunity to utilize any confidential state information he may possess. Therefore, §1-84a poses no problem.

Mr. Thomas states that his work does not require him to represent Greiner before the Department of Transportation. While he does review the inspection reports which Greiner submits to the Department, he does not sign or certify the submissions. Rather, he claims that his superior, a company vice-president, is responsible for these actions and would also represent the company in any required meetings with Departmental officials. As long as Mr. Thomas' duties continue to be limited in the fashion he has indicated, he may act as Project Coordinator without breaching the provisions of §1-84b(b). (Since Mr. Thomas' work does not bring him into contact with his former department, it is not necessary to address the question of whether acts such as certification of inspection reports would qualify for the limited exemption to §1-84b(b) which the Commission has established for activities such as technical work implementing a state contract. See, e.g., Ethics Commission Advisory Opinion No. 88-15, 50 Conn. L.J. No. 15, p. 3D (October 11, 1988).)

Finally, the question arises whether the §1-84b(a) prohibition on switching sides in on-going matters of importance to the State might apply in this instance. While in state service, Mr. Thomas was responsible for overseeing both state employee and private contractor inspections of the bridges that Greiner is now inspecting under his supervision. However, the

current Greiner inspections are not a phase or facet of any prior inspection which Mr. Thomas was responsible for while in state service. The current inspections are distinct reviews required by the State on a periodic basis. Under these circumstances, Mr. Thomas may continue as Project Coordinator of the Greiner work. See Ethics Commission Advisory Opinion No. 89-11, 50 Conn. L.J. No. 44, p. 5C (May 2, 1989). (If a state employee was personally and substantially involved in the review and approval of a particular plan, he may never represent a party, other than the State, in any subsequent proceedings concerning that plan. He may, however, represent a private party regarding a subsequent discrete, annual plan which concerns the same underlying subject matter.)

By order of the Commission,


Rabbi Michael Menitoff
Chairperson

Dated 6-8-90

