

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 06-32**  
December 15, 2006

**RE:** May Commissioner of Agriculture serve as spokesperson for national company?

**DECISION:** Yes, within limitations.

This opinion is issued in response to your December 12, 2006 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 15, 2006 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. A national company has contacted the Kentucky Commissioner of Agriculture (the "Commissioner") and requested him to be a paid spokesperson for its products. The company wishes to use the Commissioner's name and presence as a high school basketball standout, as a well known and popular college basketball player, and as a popular individual throughout the state, but not in any way as Commissioner. The Department of Agriculture does not regulate or do business with the inquiring company; however, the company does have business franchises in Kentucky. You ask:

May the Commissioner, as a former high school basketball standout and college basketball player, and as a popular individual, but not as Commissioner of Agriculture, be a paid Kentucky spokesperson for a national company which the Department of Agriculture does not regulate or do business with?

KRS 11A.005(1)(a) and (d) provide:

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

(a) A public servant be independent and impartial;

...

(d) The public has confidence in the integrity of its government and public servants.

In Advisory Opinion 01-2 (a copy of which is enclosed), the Commission stated that state agencies should reflect high standards of ethical behavior and should not endorse or promote a

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 06-32  
December 15, 2006  
Page Two

specific company or product. However, the opinion does not necessarily prohibit an employee from endorsing a product or company provided the employee does not identify, in the endorsement, his state position or name of the state agency by which he is employed.

Consequently, the Commissioner, as a well-known basketball standout, may accept compensation for serving as a spokesperson for a national company's products provided the Department of Agriculture neither regulates nor does business with the national company or any of its franchises, and provided the Commissioner does not identify his position as the Commissioner in his endorsements for the national company.

In this case, the Commission believes that the Commissioner's recognition as a basketball star overshadows his recognition as Commissioner, and deems the general public will not perceive such an endorsement by the Commissioner as reflective of the Department of Agriculture, but only as an endorsement by a former basketball star.

Sincerely,  
**EXECUTIVE BRANCH ETHICS COMMISSION**

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BY CHAIR: John A. Webb

Enclosure: Advisory Opinion 01-2