

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 93 – 33**

July 8, 1993

**RECONSIDERED IN 93-44**

RE: Future employment restrictions on agency head leaving state government

This letter is in response to your June 16, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the July 8 meeting of the Commission, and the following opinion is issued.

The relevant facts presented to the Commission are as follows. The President and CEO of a state exposition center is leaving that position on June 30, 1993, to form a private company which will acquire and develop trade and consumer shows. You ask whether the former head of this agency may represent persons or businesses before his former agency. Additionally, you ask if this former employee may accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which the employee was directly involved during state employment.

KRS 11A.040(6) and (8) provide as follows:

(6) No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

...

(8) A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of

employment; or

(b) The date the term of office expires to which the public servant was elected.

The Commission believes that for a period of one (1) year following state employment the agency head is prohibited from representing persons or businesses before his former agency. As head of the agency, the employee is directly involved in all matters regarding that agency. Therefore, any representation before that agency would be in a matter in which the employee was directly involved.

Likewise, the Commission believes that for a period of six (6) months following state employment the agency head is prohibited from accepting employment, compensation, or other economic benefit from any person or business that contracts or does business with the employee's former agency. An exception to this prohibition exists if the employee is returning to his former occupation or profession. Although KRS 11A.040(6) permits an employee to return to his same occupation or profession in which he was engaged prior to state employment, he must personally refrain from working on any matters in which he was directly involved while in state government. Thus, if the agency head is returning to his previous occupation, the agency head must refrain from working on any matters related to the state exposition center which he formerly headed, for a period of six (6) months following June 30, 1993.