

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 76

November 22, 1993

RE: Retiring state employee wishes to accept employment with milk marketing company

This opinion is in response to your November 1, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 22, 1993, meeting of the Commission, and the following opinion is issued.

The relevant facts provided by you and your supervisor are as follows. You are employed by the Milk Control Branch within the Cabinet for Human Resources as an inspector and survey rating officer of dairy farms, processing plants, milk haulers and distributors in Kentucky. You have no direct regulatory authority over milk marketing agencies. These agencies are federally regulated.

You plan to retire from your state position and have been offered employment with Milk Marketing, Inc., a milk marketing agency. Producers pay a fee to Milk Marketing, Inc. to have the company market their milk. Your responsibilities will include marketing and technical help to producers to insure quality and compliance with state and federal regulations. You ask if it is a violation of the Executive Branch Code of Ethics to accept this position.

KRS 11A.040(6) provides:

(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 a 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.

The Commission takes note that in your state employment you have no regulatory authority over milk marketing agencies. We are informed that Milk Marketing, Inc. holds no contracts with and is not regulated by the state. The Commission believes you may, upon retirement, immediately accept employment with Milk Marketing, Inc.

