

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94 - 37

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June 16, 1994

RE: May water company contribute donation to event sponsored by the Kentucky River Authority?

DECISION: No

This opinion is in response to your May 13, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 16, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Kentucky River Authority (the "Authority"), an agency within the Natural Resources and Environmental Protection Cabinet, annually sponsors the Kentucky River Sweep, an event to clean up the Kentucky River. Your company, the Kentucky-American Water Company, customarily helps support the Kentucky River Sweep by providing a donation for the event. In previous years, the Authority has solicited this donation. Your company had planned to contribute \$1,000 to the June 18, 1994, event; however, this year the Authority has not approached you for a donation. You ask if such a donation for the event is appropriate under the Executive Branch Code of Ethics.

The Authority is responsible for the maintenance of the surface water and groundwater of the Kentucky River basin. Anyone who withdraws surface water or groundwater from the Kentucky River basin for noncontact cooling water is required to pay a fee based on the amount of withdrawal. The Kentucky-American Water Company is required to pay water withdrawal fees to the Kentucky River Authority. In addition, the Kentucky-American Water Company must submit analyses of bacterial contaminants in their drinking water to the Division of Water within the Department of Environmental Protection.

KRS 11A.005(1)(a) states:

(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;

The receipt of a donation by the Kentucky River Authority from a water company which to some degree is regulated by a division in the same Cabinet as the Authority creates a conflict of interest in appearance, if not, in fact. The Commission believes the appearance of a conflict of interest that is created prohibits the Authority from accepting a donation from an entity which is regulated by the Natural Resources and Environmental Cabinet. Thus, a donation by the Kentucky-American Water Company for the Kentucky River Sweep is not appropriate under the Executive Branch Code of Ethics.