

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 96-29**

July 2, 1996

RE: May employee sell a story arising from her employment with the state?

DECISION: Yes.

This opinion is in response to your May 13, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the July 2, 1996, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. An employee of the Kentucky Correctional Institution for Women organized, as part of her official duties, a Battered Offenders Self Help group, consisting of women who were victims of domestic violence. This group, at the suggestion of the Commission on Women, initiated a quilt project and, as a result, displayed a quilt at the Kentucky State Fair. This quilt came to the attention of Governor Jones, who expressed an interest in helping the women involved in the group's project. With the assistance of the Office of Public Advocacy and the Kentucky Parole Board, Governor Jones granted pardons to all of the group's members, except for one, who received parole eligibility. All of the group's members received parole.

As a result of this group's project, the employee, an offender rehabilitation specialist, has been approached by a company interested in producing this story. The company wishes to pay the employee for the right to negotiate the sale of her life story and the right to produce the story. You ask whether the employee's acceptance of this contract for compensation would violate the Executive Branch Code of Ethics.

KRS 11A.020(1)(c) states:

(1) No public servant, by himself or through others, shall knowingly:

...

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family.

KRS 11A.040(5) states:

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

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The Commission has stated, in Advisory Opinions 93-12 and 93-18, that a public servant should not use specific knowledge or programs developed in his official position for his own private financial gain, where an advantage is created for the public servant over the general public. Advisory Opinions 93-19, 93-31, and 93-86 discuss situations in which a public servant may not receive an honorarium for performing activities which are part of that public servant's state job.

The Commission believes that the employee is not prohibited from marketing the story of her life experiences. The Commission does not consider marketing one's own story as constituting the use of one's official position for financial gain, even where the underlying events were performed as a public servant. As she is not required nor expected to educate the public as part of her state job, she would not be prevented from selling the account of her participation with the group.

However, the employee should take care, in marketing her story, to not use any state time, resources, or confidential information for this purpose.

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BY: Ruth H. Baxter, Chair