

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-45

October 29, 1996

RE: May corporate sponsor be sought to underwrite the cost of special license plate sale to benefit the Child Victim's Trust Fund?

DECISION: No, if sponsor is doing business with or regulated by the Transportation Cabinet.

This opinion is in response to your September 11, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 29, 1996, meeting of the Commission, and the following opinion is issued.

You provide the relevant facts as follows. During the 1996 session of the General Assembly, House Bill 93 was enacted as a result of a cooperative effort between the Child Sexual Abuse and Exploitation Prevention Board ("State Board"), an autonomous state agency within the Office of the Attorney General, and the Northern Kentucky Task Force on Child Sexual Abuse ("Task Force"), a non-state government organization. House Bill 93 authorized a special license plate to be issued which would provide \$10 per plate sold, and \$5 per renewal, to the Child Victim's Trust Fund (the "Fund"), the funds of which are administered by the State Board.

If less than 1800 special license plates are sold during the first year, each applicant seeking a special plate must pay to the county clerk a \$50 deposit toward the initial state fee, in addition to the \$10 which is deposited to the Fund and the \$3 county clerk fee. If more than 1800 special license plates are sold during the first year, then the deposit required toward the initial state fee is reduced to \$25 per applicant. The state fee is forwarded by the county clerk to the Transportation Cabinet and deposited into a trust and agency account to off-set the Cabinet's administrative costs for computer programming of the special license plate. The \$10 is remitted by the county clerk to the State Treasurer to be deposited to the Fund. After 1800 special license plates are sold, the \$25 state fee received by the Transportation Cabinet is deposited into the state road fund.

The Task Force is seeking a corporate sponsor to underwrite the cost of the initial 1799 plates sold. You state that such a sponsorship would allow the plates to be sold at the lesser price. You ask whether such a corporate donation sought by the Task Force to help off-set the administrative costs of the license plates would violate the Executive Branch Code of Ethics.

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The Task Force and the State Board have been working jointly on various matters. The State Board members include the Secretary of the Families and Children Cabinet, the Secretary of the Finance and Administration Cabinet, the Commissioner of Education, the Commissioner of State Police, ten public members, and the Attorney General who serves as the Chairman of the Board. The State Board is responsible for the review, approval and monitoring of the expenditures of the Fund monies and is staffed by employees of the Office of the Attorney General.

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 96-42 (a copy of which is enclosed), issued on September 5, 1996, the Commission advised that a state agency should not accept gratuities from a business that does business with, or is regulated by, the agency. Thus, although the Task Force is not prohibited from soliciting a corporate donation, the Transportation Cabinet may not accept such a donation if the Cabinet is doing business with or has regulatory authority over the contributor.

Although a donation received from a corporate sponsor would be made to the Transportation Cabinet to help underwrite the administrative costs of the special license plates and would not go directly to the Fund, the Commission believes the Fund would also benefit from the donation. The donation would allow the license plates to be sold at a lower price and thus potentially could attract more consumers to purchase the plate. By selling more plates, the Fund would receive more proceeds.

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The Commission believes that any corporate contribution to help underwrite the administrative costs of the license plates is made with the intent to benefit the Fund. Because the State Board administers the Fund, the Commission advises the Task Force, before soliciting a corporate sponsor, to determine whether the potential sponsor is doing business with, regulated by, lobbying or involved in litigation adverse to any of the state agencies represented by members of the State Board (i.e. Office of the Attorney General, Cabinet for Families and Children, Finance and Administration Cabinet, Department of Education, State Police). Such action will help prevent even the appearance of a conflict of interest for those state officials who serve on the State Board.

In Advisory Opinion 96-21, issued on July 2, 1996, the Commission addressed a similar matter and stated that the receipt of donations into a conservation fund would create a conflict of interest for the representatives of the Cabinets which regulate the donors.

Additionally, the Commission questions whether a corporate sponsorship to provide funding for Transportation administrative costs would allow the provisions regarding payments for the special license plates in House Bill 93 to be circumvented. The Commission advises that you seek advice from the Transportation Cabinet concerning this issue.

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BY: Ruth H. Baxter, Chair