

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-22

May 14, 1996

RE: May the Office of the Attorney General solicit donations of air time or cellular phones from cellular phone companies for victims of domestic violence?

DECISION: No.

This opinion is in response to your March 21, 1996 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 14, 1996 meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows: The Office of the Attorney General (the "Office") wishes to initiate a cellular phone program for victims of domestic violence. In this program, domestic violence victims would be given a cellular phone which they could use in emergency situations. You wish to know if it is permissible under the Executive Branch Code of Ethics for the Office to solicit donations of cellular phones and air time from cellular phone companies, as there have not been any funds appropriated for this program. You state that the Office does not have any actions pending which relate to cellular phone companies, nor have there been any to date. However, the Office does have the authority to intervene in cases involving cellular phone towers and consumer complaints involving cellular phone companies, before the Public Service Commission. Additionally, the Office has a contract with one cellular phone company to provide services.

KRS 11A.005(1)(a) and (d) state:

(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.

The Commission believes that, because the Office has a contract with a cellular phone company, employees of the Office should not solicit donations from cellular phone companies. Additionally, because the Office has the authority to intervene before the Public Service Commission in cases involving cellular phone companies, soliciting donations from such companies could create a conflict of interest. If the Office were to intervene in such a case

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-22

May 14, 1996

Page 2

involving a company from which it had solicited cellular phones and air time, the Office may not be considered impartial and independent in its judgment of the matter. See Advisory Opinions 93-45 and 93-56, attached, which also may provide some guidance in this matter.

While the Commission recognizes the importance of this program, the Office should not solicit telephones and air time from cellular phone companies. The Commission encourages the Office to turn over to private persons or organizations the task of soliciting and procuring any items from the cellular phone companies and the Office should refrain from any record-keeping of any such activity.

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BY: Ruth H. Baxter, Chair