

ADVISORY OPINION 98-35

September 3, 1998

RE: May park refer customers to rental property owned by park manager?

DECISION: No.

This opinion is in response to your August 6, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 3, 1998, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed as the park manager at Dale Hollow State Resort Park (the "Park"). Recently, you and your wife purchased some rental property located just outside the entrance of the Park. You intend to rent this property to vacationers on a nightly basis. Your spouse, who is not a state employee, is handling all matters relating to this property.

The Park, which only has 30 rooms available, currently has all rooms reserved several months in advance. Traditionally, when the park has no available rooms, customers are referred to local private businesses for accommodations. You ask whether employees of the Park may refer customers to your property, S&S Cabins, along with other properties in the area.

KRS 11A.020(1) provides:

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

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

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

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

The Commission believes that neither you, nor employees under your supervision, should refer customers to any rental property that you or you spouse own. Such referrals may appear to the public that you are using your official position to obtain financial gain or advantages for yourself privately. Additionally, the Commission believes that you should maintain a clear distinction between your official duties and your private activities.