COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
http://ethics.ky.gov/

GWEN R. PINSON
CHAIR

RONALD L. GREEN
VICE CHAIR

JEANIE OWEN MILLER

ANGELA EDWARDS

J. QUENTIN WESLEY

Executive Branch Ethics Commission
ADVISORY OPINION 08-32
November 14, 2008

JOHN R. STEFFEN
EXECUTIVE DIRECTOR

FOUNTAIN PLACE SHOPPES
#3 FOUNTAIN PLACE
FRANKFORT, KY 40601
(502) 564-7954
FAX: (502)-564-2686

DANA C. NICKLES
GENERAL COUNSEL

RE: May the Director of Administration for the Workers Compensation Funding Commission continue to provide instructional services for government finance professionals by writing self study course materials and acting as an instructor/discussion leader for group study classes?

DECISION: Yes as no conflict exists between her self employment activities and her duties in the public interest.

This opinion is issued in response to your October 30, 2008 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 14, 2008 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows:

The Kentucky Workers Compensation Funding Commission (the "KWCFC") is vested with those responsibilities set forth in KRS 342.1223(1) and (2) which includes fiduciary and actuarial responsibilities relating to special fund assessments. The KWCFC has recently hired a Director of Administration who will be responsible for managing the administrative affairs of the KWCFC in the areas of staff training and continuing education, policies and procedures, technology, personnel, budgets, and facilities management. The Director is also responsible for the development and maintenance of a repository for the collection and compilation of data necessary for the KWCFC to determine annual special fund assessment rates.

The individual hired as the Director of Administration for the KWCFC was and continues to be self employed as an independent consultant providing two types of services. First, she provides instructional services for government finance professionals by writing self study course materials and acting as an instructor/discussion leader for group study classes. During these

activities, her focus is on generally accepted accounting principles, auditing standards and "best practices" standards for governmental financial management.

Second, she offers consulting services to local governments needing assistance with the preparation of annual financial statements, including organizing financial management functions for more efficient reporting under GAAP standards or training local government staff in the area of government financial reporting.

Since her employment as Director of Administration she has curtailed some activities related to providing consulting services to local governments; however, she wishes to continue the writing and teaching projects described above. The KWCFC inquires as to whether any conflict is presented with respect to her self employment activities and her new responsibilities as the Director of Administration.

KRS 11A.020(1)(a) provides that:

(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.

In deciding whether a conflict exists, the Commission looks at the degree to which the outside activities intersect and conflict with the employee's duties in the public interest. In the situation described above, there appears to be no intersection between the employee's self employment activities and her new duties for KWCFC as long as the employee does not utilize state resources to perform her self employment activities. We therefore find there is no conflict between her personal and private interests and her duties in the public interest.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

Gwen R. Pinson

By Chair: Gwen R. Pinson