

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 01-3
February 9, 2001

RE: May Lieutenant Governor promote EMS files project?

DECISION: Yes, but he should not promote or endorse any companies or organizations sponsoring the project.

This opinion is in response to your December 7, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 15, 2000, and February 9, 2001, meetings of the Commission and the following opinion is issued.

The relevant facts provided to the Commission are as follows. A local television station, WHAS-TV, has offered to allow the Lieutenant Governor to film a promotional advertisement on the Emergency Medical Services ("EMS") files project, a public service project of the local television station. The EMS file is a large refrigerator magnet that has a pocket to insert personal medical information on a form for EMS personnel to locate when called to a person's home during an emergency. The EMS files are free to the public.

The local television station sponsoring the project, however, earns revenue from the project through the sale of sponsorships to advertisers. These advertisers, including Anthem Blue Cross/Blue Shield, the University of Louisville Health Care, the Kentucky Nurses Association, Fifth Third Bank, WLEX television, and the for-profit company that produces the EMS file have donated either money or in-kind service for the project. In return for their sponsorships, they receive advertising on the outside of the EMS file and advertising spots on the local television station. In addition, the local television station is donating some commercial time for the project.

According to the local television station, the Lt. Governor may appear in either a public service announcement donated by the local television station, which would associate WHAS-TV with the project, or he could appear in a paid commercial for the project in which other sponsors would be named. If he were to appear only in public service announcements, his visibility would

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be limited since the local television station has an obligation to air a certain number of spots for the paid sponsors, and will not air as many public service announcements. You ask for an opinion as to whether the Lieutenant Governor may promote or endorse the EMS files project through the local television station.

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.

The Commission has issued several previous advisory opinions reflecting that state agencies should uphold high standards of ethical behavior and should not endorse or promote a specific company. In this instance, however, the Lieutenant Governor's endorsement of the EMS files project does not appear to be promoting a specific product or service of which the distribution will provide a profit to a specific company, but rather he will be endorsing a public service product not associated with any one particular business or organization. Although this product does advertise, on its cover, specific businesses and organizations, the Commission does not believe that an endorsement of the EMS files project will necessarily be an endorsement of those specific businesses and organizations.

Thus, the Commission believes that the Lieutenant Governor may promote the distribution of the EMS files project through a local television public service announcement, but only if such an announcement is not associated with any of the sponsors of the project including the local television station. If this type of announcement is not possible, then the Lieutenant Governor should refrain from publicly endorsing the project through the local television station. In any public promotion the Lieutenant Governor does for the EMS files project, he should take great care not to mention or promote in any way the businesses and organizations that are sponsoring the project.

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Furthermore, if this promotion is to be performed on state time, the Lieutenant Governor should ascertain that it is related to the mission of the Office of the Lieutenant Governor.

Sincerely,

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BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.