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BOYCE A. CROCKER

ADVISORY OPINION 01-10

May 11, 2001

RE: Reconsideration of Advisory Opinion 00-52

DECISION: Reversal of Original Opinion

This opinion is in response to your December 1, 2000, request for a reconsideration of Advisory Opinion 00-52 by the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 30 and May 11, 2001, meetings of the Commission and the following opinion is issued.

You state the additional relevant facts as follows. In the early 1980's the Department of Housing, Buildings, and Construction made the determination to adopt and use the program and examination administered by the National Certification Program for Construction Code Inspectors ("NCPCCI") for certifying its building inspectors. Experior Assessments ("Experior"), a for-profit company, has been the vendor for administering the examinations since the inception of the NCPCCI, although it has had several name changes throughout the years. You state that the NCPCCI was not established to serve the private interests of Experior, but was established to ensure qualified inspectors. The sole purpose of the NCPCCI is to develop a uniform examination for inspectors to take in order to be certified. If the Department wants to continue to utilize the uniform examinations of the NCPCCI, it must use the services of Experior for administration of the examinations. Additionally, 815 KAR 7:070 requires that persons who wish to be certified as building inspectors must pass the examinations prepared by the NCPCCI.

As stated in Advisory Opinion 00-52, it appears to the Commission that Experior is an integral part of the NCPCCI. However, after reviewing the facts above, the Commission believes that because state regulations require the Department to use the examinations of the

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NCPCCI for certifying building inspectors, and thus no decisions are being made by Department officials regarding whether to contract with Experior, employees may accept reimbursement for travel expenses from the NCPCCI or Experior for their service on the board or committees. This belief is based on the assumption that the NCPCCI oversees the distribution of the travel assistance funds by Experior.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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