

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 02-42

September 11, 2002

RE: May a public servant solicit funds, on behalf of a non-profit association, from businesses?

DECISION: Yes, provided the businesses do not do business with and are not regulated by the Department of Parks.

This opinion is in response to your July 10, 2002, request for an opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 11, 2002, meeting of the Commission and the following opinion is issued.

You state the following relevant facts. You are employed as a Resort Park Manager in the Department of Parks. In 1993 you earned your Certified Public Manager ("CPM") certificate. Since then you have been an active member of both the Kentucky Society of Certified Public Managers (the "KSCPM") and the American Academy of Certified Public Managers (the "AACPM"), holding various offices in each organization. The AACPM is a non-profit federation of 19 state CPM organizations. Each year, the AACPM holds an educational conference for its members. Currently, you are President-Elect of the AACPM and will assume the Presidency in January.

One of your duties in the AACPM is to expand funding sources available to the AACPM, especially those pertaining to the annual educational conference. One area suggested has been to solicit various corporations who have shown a history of donating to the continuing education of state employees. You say there is no "list" of such companies, so any fundraising will be a "blind pursuit" and those corporations you contact may or may not do business with the Commonwealth. You ask if you would be allowed to participate in the solicitation of grants from such companies on behalf of AACPM.

KRS 11A.020(1)(d) provides:

11A.020 Public servant prohibited from certain conduct --
Exception -- Disclosure of personal or private interest.

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

•••

(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.

You may solicit funds from entities that do not do business with and are not regulated by the Department of Parks. However, in Advisory Opinion 02-28 (a copy of which is enclosed), the Commission held that a public servant could not, in his role as president of a national association, solicit funds from entities that do business with or are regulated by his state agency. That same logic applies to these facts. Thus, you may not solicit funds from those entities that do business with or are regulated by the Department of Parks.

Other members of the AACPM who also are state employees may solicit businesses which you are prohibited from soliciting if their employing agencies do not do business with or regulate such businesses. If other members of the AACPM solicit funds from entities you are prohibited from soliciting, you must have no involvement in the record-keeping of such solicitations.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Joseph B. Helm, Jr.

Enclosure: Advisory Opinion 02-28