

Executive Branch Ethics Commission  
**ADVISORY OPINION 08-4**  
February 29, 2008

**Reconsideration of Advisory Opinion 07-43**

**RE:** Reconsideration of Advisory Opinion 07-43.

**DECISION:** Uphold original opinion, with additional caveats.

This opinion is issued in response to your February 14, 2008 request for a reconsideration of Advisory Opinion 07-43 issued by the Executive Branch Ethics Commission (the "Commission") on December 14, 2007. This matter was reviewed at the February 29, 2008 meeting of the Commission and the following opinion is issued.

You provide additional relevant facts regarding the issues in Advisory Opinion 07-43 as follows. The federal motor safety carrier regulations which KVE has adopted are applicable to limousine services that transports between 9 and 15 passengers, and thus the limousine service would be regulated by the KVE.

KRS 11A.020(1)(a) 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;

Further, KRS 11A.040(3) provides:

- (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

Thus, although the Commission upholds its original opinion which allows the sworn officer to operate a limousine service, it adds further caveats. The Commission envisions circumstances where potential conflicts could exist for the employee in the operation of the business. As part of his official duty, the officer must have no involvement in any matters

**EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 08-4**

February 29, 2008

Page Two

regarding his limousine service or any business that competes with his limousine service. Further, he must ascertain that any of the clients of his business are not persons or businesses that he might regulate as part of his official duty for the state. If it is impossible for him to remove himself from such potential conflicts then the Commission recommends that he not operate the limousine service. Ownership of the business by the spouse of the sworn officer would not remove any potential conflicts for him.

The Commission also points out that KVE is not prohibited from implementing in-house polices regarding outside employment or the operation of outside private businesses of its employees that may be more restrictive than the Executive Branch Code of Ethics.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

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By Chair: John A. Webb