

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 2

March 5, 1993

RE: Department of Fish and Wildlife Resources

In response to a request dated January 4, 1993, the Executive Branch Ethics Commission (the "Commission") issued the following advisory opinion at its March 5, 1993, meeting.

The Department of Fish and Wildlife Resources (the "Department") asks if it should promulgate a regulation to stop future issuance of commercial licenses to Department merit employees.

As an example of a situation of concern, the Department notes that a Department employee hired as a turkey biologist releases wild turkeys in certain wilderness areas as part of his Department job and also holds a commercial guide's license, issued by the Department, under which he "moonlights" as a professional turkey hunting guide near the region where he previously released turkeys. Brochures advertising his guide services state that he is a Department biologist.

Another example is that of Department conservation officers who hold commercial taxidermist's licenses issued by the Department and who also have legal authority to issue citations to competing licensed taxidermists.

The Commission is informed that the location of wild turkeys released is public information available to all commercial hunting guides; that the turkeys are released in wilderness areas as large as 10,000 acres in which no hunting is allowed, and that the hunting season usually occurs one or two years after the turkeys are released.

From the information provided, the Commission finds no clear cut authority in the Ethics Code (KRS 11A) for a blanket prohibition against the issuance of commercial licenses to Department employees. However, the Commission feels the situations described above create potential for abuse and it commends the Department's apparent desire to adopt policies or regulations to avoid any real or perceived conflicts of interest and any loss of public confidence in the Department's integrity.

For instance, the Department might consider geographically separating the areas to which its employees are assigned for duty from the areas where they conduct their Department-licensed, private businesses. Also, the Department might consider prohibiting its employees from mentioning their Department employment in advertisements of their Department-licensed, private businesses.

The Department also asks if a Department merit employee can avoid a violation by having a license put in the name of a spouse or other family member. Without more specific

information, the Commission withholds an opinion on this question.

The Commission finds no distinction between merit and non-merit employees in considering the issues covered in this opinion.