

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 18

May 10, 1993

RE: State agency asks whether its employee acting as order-buyer on day off has conflict of interest.

This letter is in response to your April 29, 1993, request for an opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 10, 1993 meeting of the Executive Branch Ethics Commission and the following opinion is issued.

You state the relevant facts as follows. An agriculture market inspector employed in your state agency inspects four markets in the South Central part of the state. On his day off, the employee attends livestock sales at a Mt. Sterling livestock market and acts as an order-buyer for a Bowling Green livestock market. The Mt. Sterling livestock market is not one of those the employee inspects as part of his state job; your request is silent as to whether the Bowling Green market is one of those he inspects. The employee is paid for his order-buyer services by the Bowling Green market.

The employee in question has an advantage over other order-buyers with his knowledge of the market he has gained from his position within your agency, but you have received no complaints from farmers, other competitors or market owners about the matter.

In considering this request the Commission takes note of provisions in KRS 11A.020(1)(c) and (d).

Public servant prohibited from certain conduct--Disclosure of personal or private interest. --

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

...

(c) Use his official position or office to obtain financial gain for himself or any member of the public servant's family; or

(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.

The agency employee's knowledge of markets gained from employee's position creates an advantage over the general public for the livestock market which the employee represents. Such knowledge from the employee's official position allows the employee financial gain through compensation for the services performed for the livestock market.

Therefore, the Commission believes the employee's acting as an order-buyer presents a conflict of interest under KRS Chapter 11A and is not permissible.