

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 37

July 8, 1993

RE: May Commissioner serve on board of private corporation?

This letter is in response to your May 28, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the July 8, 1993, meeting of the Commission, and the following opinion is issued.

You provided the relevant facts to the Commission as follows. As General Counsel for the Department of Agriculture, you have been asked by the attorney of a new, private corporation if the Commissioner of your agency may serve on the corporations Board. The new corporation is an insurance firm with offerings to the public for investment. The firm will provide loans to farmers. You have informed the corporation's attorney that, in your opinion, the Commission serving on the Board would be a conflict of interest according to KRS Chapter 11A. You are seeking a formal opinion on this matter from the Commission.

KRS 11A.005(1)(a) and (c) state:

(a) A public servant be independent and impartial

...

(c) A public servant not use public office to obtain private benefits;

Additionally, KRS 11A.020(1)(a) states:

(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;

The Commission views the matter in light of the fact that this insurance company may provide loans and/or insurance to farmers. The Commissioner of Agriculture serving on a Board such as this may be involved in a matter where there is a substantial conflict between his duties in the public interest and the welfare of the company which he would represent.

The Commission believes the Commissioner of Agriculture should not serve on the Board of the private corporation in order to avoid any real or perceived conflict of interest in this area.