

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 95-2**

February 9, 1995

RE: May employee own interest in company which provides drug and alcohol screening services?

DECISION: Yes.

This opinion is in response to your January 13, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 9, 1995, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed as a branch manager by the Kentucky Department of Corrections, Division of Probation and Parole within the Justice Cabinet. You wish to purchase minority ownership of over five percent (5%) in a newly established company which provides drug and alcohol screening services. Your interest in the new company is only as an investment and you will not be involved in soliciting new business or acting as an agent for the new company.

The Department of Corrections operates its own drug and alcohol screening program "in house." The new company is not seeking to do business with the Department. In addition, in your state employment, you are not involved in any referrals to outside companies concerning drug and alcohol screening. You request an advisory opinion as to whether you may invest in the new company.

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;

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 95-2

February 9, 1995

Page Two

In addition, KRS 11A.040(4) provides:

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by any state agency. This provision shall not apply to a contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain or to agreements which may directly or indirectly involve public funds disbursed through entitlement programs.

The Commission finds no conflict with your ownership of a minority interest of a company which provides drug and alcohol screening services, provided the company has no contracts or agreements with any state agencies, and the agency for which you work does not seek the services of a company which provides similar services. We caution you not to make contacts on your state time for the benefit of the company. In addition, you should not be involved in any referrals to outside companies concerning drug and alcohol screening.

EXECUTIVE BRANCH ETHICS COMMISSION

---

By: Livingston Taylor, Chairman

