

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 95-12

April 27, 1995

RE: May state park manager accept the use of golf clubs from a golf club supplier which sells products to the state park?

DECISION: No

This opinion is in response to your March 9, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 27, 1995, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are seeking an opinion concerning a Department of Parks employee who manages a state park ("Park Manager"). He is a full-time employee who manages a park with a golf course and who has purchasing authority. The Park Manager also performs consulting duties for a sporting goods company which is a supplier of golf clubs and associated materials to the park ("Supplier"). As a consultant, the Park Manager is asked to test golf clubs for the Supplier. The Supplier provides the Park Manager with a new set of golf clubs for testing on a year-round basis. There is no cash remuneration, and the clubs are not given to the Park Manager. On an annual basis, the Park Manager trades the old set of golf clubs for the use of a new set of golf clubs. The Park Manager is a golf pro and was employed previously as the golf shop manager at another state park.

The Supplier does not have any contracts with the Department of Parks; rather the Park Manager purchases a small amount of products from the Supplier for resale in the park golf shop. The total amount of purchases made is approximately two or three hundred dollars per year. The Park Manager determines what to purchase from the supplier and other companies.

KRS 11A.040(9) states:

(9) Without the approval of the commission, no public servant shall accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds. The commission shall promulgate administrative regulations to establish a procedure for the approval of outside employment of a public servant, including a requirement that the public servant and his appointing authority state in writing that the public servant is not in a position to influence any agency decision relating to the outside employer.

Also, the Commission, in its Advisory Opinion 93-81, has stated that a public servant should not accept gifts from a person or business that does business with the agency in which the public servant is employed. The use of the golf clubs could be considered a gift or compensation for outside employment as a consultant.

Because the Supplier does business with the park where the Park Manager is employed, the Park Manager should not accept the use of the golf clubs as a gift nor should he accept outside employment with or without use of the golf clubs from the Supplier.

The purpose of the prohibitions cited above is to avoid any perceptions among the public or competing sporting goods companies that the Park Manager is promoting the private interests of the donor-company as he carries out his public duties of Park Manager.