

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-23

May 14, 1996

RE: Does employee's volunteer activity present a conflict under the code of ethics?

DECISION: No.

This opinion is in response to your April 12, 1996 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 14, 1996 meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. An employee of the Cartography Branch, Division of Technical Support, Department of Property Taxation, in the Revenue Cabinet is responsible for drafting maps of real and mineral ownerships in property for taxation purposes. He also volunteers as the state treasurer of a non-profit association of community arts agencies. The employee lists the following as his duties as state treasurer:

- maintaining financial records;
- preparing payroll records for the sole employee of the association;
- signing the employer's quarterly federal tax return;
- issuing monthly withholding coupons for the employee;
- signing the federal information return, Federal Form 1096;
- applying for and receiving a withholding account number from the Revenue Cabinet;
- applying for and receiving an identification number from the Kentucky Division of Unemployment Insurance;
- ordering checks from a local bank; and
- planning the budget.

In addition, the employee's name is listed on the Kentucky Tax Registration Application for Withholding which is filed with the Revenue Cabinet. He recently issued and mailed a check on behalf of the association to the Revenue Cabinet for a late penalty fee. The late penalty fee was later waived because the association had been required to wait for the processing of a new Kentucky withholding account number. You ask if any of these activities present a conflict under the Executive Branch Code of Ethics.

Pursuant to KRS 11A.020(1)(a) and (2):

(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;

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(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

The Commission believes the employee may serve as treasurer of the association of community arts agencies long as this service does not conflict with his responsibilities in his position with the state. Specifically, the employee is not prohibited from submitting withholding and other tax materials to the Revenue Cabinet as long as he is not involved in his state position in any discussions or decisions concerning the association for which he serves as treasurer, and he does not use any influence with the Revenue Cabinet in these matters. However, the Commission cautions the employee not to appear before the Revenue Cabinet if such representation of the association may lead the general public to believe that the employee is using his official position to further a private interest.

In addition, the Commission believes that employee should not solicit donations or keep records of contributions from anyone who does business with or is regulated by the agency for which the employee works. See Advisory Opinion 94-17, a copy of which is attached. Therefore, as long as the employee is not soliciting funds or services for the association from persons or businesses that are regulated by or doing business with the Revenue Cabinet, he does not appear before the Cabinet, and he is not involved in his state position with any matters regarding the association, no conflict of interest is apparent in his service as state treasurer.

The Commission believes there is no apparent conflict of interest with the employee submitting other required materials to the Division of Unemployment Insurance and federal agencies.

EXECUTIVE BRANCH ETHICS COMMISSION

BY: Ruth H. Baxter, Chair

Enclosure: Advisory Opinion 94-17