

ADVISORY OPINION 97-18

July 1, 1997

RE: May Branch Manager's mother represent company which sells products to agency gift shop

DECISION: Yes, as long as Branch Manager refrains from any involvement concerning purchases from the company.

This opinion is in response to your June 3, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the July 1, 1997, meeting of the Commission, and the following opinion is issued

You state the relevant facts as follows. You are the Public Programs Branch Manager for the Salato Wildlife Center, Kentucky Department of Fish and Wildlife Resources. Your official duty involves overseeing the overall operation of the Wildlife Center including the Kentucky Afield gift shop, the Kentucky Native Plant Program, Game Farm security and animal care. You have held this position since February 1, 1996.

The Kentucky Afield gift shop sells nature, hunting and fishing related items. Since the opening of the gift shop in October 1995, it has been purchasing products primarily from four sales representatives whose companies each sell different lines of educational and museum quality products. On January 1, 1997, your mother took over the sales accounts of one of the four representatives from whom the gift shop purchases products. You state that your relationship with your mother does not affect the gift shop's association with the company your mother represents, however the type and quality of merchandise sold by the company does.

You ask for an opinion on this situation noting the following:

- The gift shop's relationship with the company your mother represents existed in its present capacity prior to you or your mother receiving your current positions.
- You are a second line supervisor over the Kentucky Afield gift shop. The gift shop manager does the direct buying.
- No other sales representative carries the same gift lines the company which your mother represents sells within the state (for example, Squire Boone's rocks, minerals and rock candy).

KRS 11A.020(1) and (3) provide:

- (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;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(c) Use his official position or office to obtain financial gain for himself or any members 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.

...

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

The Commission believes that, in order to avoid a potential conflict of interest or even the appearance of one, you should abstain, as a part of your official duty, from all decisions and discussions pertaining to purchases from the company your mother represents. Your intention to abstain should be disclosed in writing to your supervisor, pursuant to KRS 11A.020(3). In addition, you should not discuss any matters with your mother concerning the gift shop, the company she represents or other companies which may be in competition with the company she represents. Furthermore, the gift shop manager under your supervision should report to another employee, not under your supervision, concerning matters which involve the company that your mother represents.