



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 91-12

Acceptance of Royalties From An Outside  
Publication Related To One's State Duties

Ms. Maureen Well, Director of Law Libraries, and Mr. Lawrence Cheeseman, a supervising law librarian, have asked the Ethics Commission whether Mr. Cheeseman may receive royalties from the publication of a book he has co-authored entitled the Connecticut Legal Research Guide (Guide).

In addition to the basic question posed, Ms. Well has also asked whether, if Mr. Cheeseman is barred from receiving compensation from the publication, a co-author and/or publisher may market the Guide. Finally, Ms. Well has asked whether work products developed as part of one's state job may be used by a state servant, either in whole or in part, for a private publication.

Under the Code of Ethics for Public Officials, Connecticut General Statutes, Chapter 10, Part I, a public official or state employee may not accept outside employment which will impair independence of judgment as to state duties or require or induce disclosure of confidential information acquired in state service. Conn. Gen. Stat. §1-84(b). Additionally, no one subject to the Code may use his or her official position or confidential state information for personal financial benefit. Conn. Gen. Stat. §1-84(c). One may, however, utilize expertise, including experience acquired in state service, for financial gain as long as one's actions do not breach §1-84(b), §1-84(c), or any other provision of the Code. Ethics Commission Advisory Opinion No. 89-14, 50 Conn. L.J. No. 52, p. 7C (June 27, 1989).

Mr. Cheeseman believes that his outside endeavor is consistent with the requirements of the Code of Ethics. In support of this position, he states that "There is no statutory, regulatory nor specific job requirement that I prepare, publish and/or distribute a general book on legal research sources in Connecticut." In essence, Mr. Cheeseman's claim is that the Guide addresses different issues, and is directed at a different class of citizens, than he is responsible for in his state position. He describes the Guide "As a comprehensive treatise

[which] addresses the issue of educating Connecticut citizens about the sources of Connecticut law in their totality." As such, Mr. Cheeseman believes the Guide can in no way conflict with his public responsibility to provide specific reference services to State Law Library patrons.

In her correspondence with the Commission, Ms. Well notes that the mission statement of the Law Library Services Unit is "to provide the courts and citizens of Connecticut with access to current legal materials in an efficient and timely manner and to provide bibliographic assistance, legal reference, and research guidance to all patrons." More specifically, she states that, as part of his official job duties, Mr. Cheeseman "is expected to directly assist patrons with their legal research needs and to provide reference service, both bibliographic and substantive." Additionally, he is responsible for training staff "...in legal bibliography and the methodology for conducting legal research..." and "...for overseeing collection development, selecting appropriate acquisitions, and recommending new purchases."

Ms. Well has also provided the Commission with numerous documents, a review of which yields a fuller understanding of the matter under consideration. Among these documents are a more detailed description of the Guide at issue and a statement of job duties, both authored by Mr. Cheeseman.

In the former, Mr. Cheeseman describes the publication as "...a bibliographic guide to Connecticut legal research material. It answers the questions: which is the current edition and how often and in what manner is it updated; what bibliographic sources exist on the subject-present, past and future-including inprint and online; [and] how to use those bibliographic sources to locate the information needed including current and historical research." In the latter, Mr. Cheeseman, in response to a state job evaluation questionnaire, includes among his principal duties, the development of a ready-reference manual (Connecticut Civil Forms Reference Manual), as well as the development of various specialized reference indexes and other research tools.

While Mr. Cheeseman is correct in his assertion that the generic job specification for Supervising Law Librarian does not specifically require the production of a guide to Connecticut legal research sources, his actual job duties, including development of the Civil Forms Reference Manual, appear to have involved similar work. Furthermore, while Mr. Cheeseman's Guide is a comprehensive treatise, the publication clearly includes



the type of detailed bibliographic information and instruction which he is expected to provide to citizen/patrons in his state job.

This being the case, it is the Commission's opinion that Mr. Cheeseman's receipt of royalties from the unrestricted sale of the Guide to Connecticut institutions or citizens would constitute a conflict of interests. As the Commission has previously held, it is impermissible under the Code for a state employee to publish an outside treatise for profit, if the public servant is expected to provide the same information to the same class of persons in his state position. See, e.g., Ethics Commission Advisory Opinion Nos. 90-15, 51 Conn. L.J. No. 51, p. 2D (June 19, 1990). (Coordinator of Worker Education, Workers' Compensation Commission, should not privately publish a handbook on self-representation in workers' compensation cases, when the individual, in his state capacity, was responsible for educating Connecticut workers regarding workers' compensation procedures and employee rights. Such activity would impair the Coordinator's independence of judgment concerning the issue of how extensively to disseminate free state information on the same subjects.); and 89-9, 50 Conn. L.J. No. 44, p. 1C (May 2, 1989). (State assessment adviser should not be paid privately to do what he or she is essentially already required to do as part of his or her state job. The temptation to be paid by two sources for the same work might very well impair independence of judgment as to official duties.)

Notwithstanding the potential conflict in this instance, the Commission does not find it is necessary, under the Code, to prohibit totally Mr. Cheeseman's outside endeavor. Alternatively, the Commission will allow Mr. Cheeseman to accept royalties from the sale of the Guide, including royalties generated from its sale to Connecticut citizens and institutions, under the condition that he provide at no cost to the State sufficient copies of the Guide to supply the reasonable needs of the Connecticut Law Libraries.

Such an arrangement should ensure that Mr. Cheeseman's independence of judgment is not impaired in relation to his providing services to law library patrons, training to law library staff, or with regard to library purchasing decisions. At the same time, it will allow him to receive remuneration for the outside publication which he has already written.

The Ethics Commission cautions those subject to the Code of Ethics for Public Officials that this Opinion should not be viewed as precedent. Rather, this ruling provides an ad hoc,

essentially after the fact, remedy. Those considering similar endeavors should seek Commission advice in advance.

Finally, the Commission turns to Ms. Well's query regarding use of state work product by a public servant for private benefit. Absent a prior copyright agreement, which would be beyond the Commission's purview, such conduct is, without question, prohibited as a misuse of state position for pecuniary gain.

By order of the Commission,

*Rabbi Michael Menitoff*

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Rabbi Michael Menitoff  
Chairperson

Dated 5-6-91