



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 92-15

Former DMR Employee May Not, For One Year After Leaving  
State Service, Promote A For-Profit Vacation Planning  
Service Through DMR

The petitioner was employed by the State of Connecticut Department of Mental Retardation (DMR) as a part-time Rehabilitative Therapist from September, 1990 until she was laid off on May 30, 1991. The petitioner was rehired by DMR on July 1, 1991 as a summer group home worker and laid off again on September 5, 1991. As an employee of the DMR, whether full- or part-time, the petitioner was a "state employee" within the meaning of Conn. Gen. Stat. §1-79(q), and subject to the Code of Ethics for Public Officials. Following her second layoff, the petitioner, who had experience as a travel agent, moved to Florida and started a summer vacation planning service for special need clients, known as New Adventure Tours.

After leaving state service, the petitioner sent promotional materials to former DMR co-workers which described New Adventure Tours and identified her as its Director. In addition, the petitioner has used DMR mailing lists to direct her brochures to potential clients. The petitioner states that she is operating the business without a profit, in that the cost to clients covers only their plane fare, meals, activities and housing. The petitioner has asked first, whether her operation of New Adventure Tours violates any provision of the Code of Ethics for Public Officials, and second, whether the date of her termination from DMR, for purposes of Conn. Gen. Stat. 1-84b(b), is May 30, 1991 or September 5, 1991.

As a former state employee, the petitioner is subject to the post-state employment provisions of the Code, two of which are of immediate relevance. First, pursuant to Conn. Gen. Stat. §1-84a, the petitioner may never disclose or use any confidential information acquired in the course of and by reason of her official duties, for financial gain for herself or another person. "Confidential information" is any information not generally available to the public. See Ethics Commission Advisory Opinion No. 90-7, 51 Conn. L.J. No. 35, p. 6D (February 27, 1990). Even if, as she states, the petitioner realizes no financial gain from her efforts in organizing the trips, the purveyors of transportation, meals, activities and housing with

whom she transacts business most certainly do not operate on a non-profit basis. Therefore, to the extent that DMR client lists would not generally be available to the public, the petitioner may not use the information to promote her business.

Second, Conn. Gen. Stat. §1-84b(b) prohibits the petitioner, for one year after leaving state service, from representing New Adventure Tours, or anyone else other than the State, for compensation before the department in which she served at the time of her termination of service, concerning any matter in which the State has a substantial interest. Pursuant to Conn. Gen. Stat. §17a-217, the DMR is required to develop recreational programs for mentally retarded persons, and may distribute funds only to nonprofit organizations whose operations and programs meet certain criteria. The solicitation of DMR clients through DMR personnel by a tour business is arguably a matter in which the State has a substantial interest, even when the client's personal funds, and not state funds, are at stake.

To "represent," within the meaning of Conn. Gen. Stat. §1-84b(b), means to do any activity that reveals the identity of a former state employee, whether in person, in writing or by telephone. See, Ethics Commission Advisory Opinion No. 89-25, 51 Conn. L.J. No. 24, p. 2E (December 12, 1989). Both contacting DMR personnel by telephone and forwarding promotional materials which identify the petitioner by name constitute "representation" within the meaning of §1-84b(b).

Although, within one year after leaving state service, the petitioner may not, for profit, contact the DMR for the purpose of discussing New Adventure Tours, she is permitted, during such period, to contact her former agency to request purely generic information. However, any request or discussion which specifically or by implication references the petitioner's vacation planning service or other enterprise would be a violation of §1-84b(b), if the element of compensation is present. See Ethics Commission Advisory Opinion No. 91-24, 53 Conn. L.J. No. 16, p. 1C (October 15, 1991). The Commission notes that nothing in the Code of Ethics for Public Officials prohibits DMR clients from independently using the petitioner's services, nor is DMR prohibited from referring clients to the petitioner, provided the petitioner does not solicit such referrals.

The final issue raised by the petitioner's inquiry, not previously addressed by the Commission, is whether the petitioner's one-year ban on contacting the DMR expires on the anniversary of her first, or her second, layoff from state

service. Pursuant to §1-84b(b), the ban is effective "for one year after leaving state service." Under the facts presented, the petitioner was "in state service" from July 1, 1991 until September 5, 1991. The Commission must therefore conclude that the petitioner's ban on representing anyone, other than the State, for compensation before the DMR will continue through September 5, 1992.

By order of the Commission,



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Christopher T. Donohue  
Chairperson

Dated 6-1-92