



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

Phone (860) 263-2400 Fax (860) 263-2402
18-20 Trinity Street – Hartford, Connecticut 06106-1660
www.ct.gov/ethics
An Equal Opportunity employer

Advisory Opinion No. 2012-4

February 23, 2012

Question Presented: **The petitioner asks whether a member of the Insurance and Risk Management Board may take official action that would financially benefit a subsidiary of his or her employer.**

Brief Answer: **Yes. The Board member may take official action that would financially benefit a subsidiary of his or her employer, because neither the employer nor the subsidiary is a business with which the Board member is “associated.”**

At its January 2012 regular meeting, the Citizen’s Ethics Advisory Board (“Board”) granted the petition for an advisory opinion submitted by Daria Cirish, Director of Insurance and Risk Management for the Insurance and Risk Management Board. The Board issues this advisory opinion on the date shown below in accordance with General Statutes § 1-81 (a) (3). The opinion interprets the Code of Ethics for Public Officials (“Ethics Code”)¹ and its regulations, is binding on the Board concerning the person who requested it and who acted in good-faith reliance thereon, and is based solely on the facts provided by the petitioner.

¹Chapter 10, part I, of the General Statutes.

Facts

The facts provided by the petitioner are set forth below and are considered part of this opinion:

The Members of the Insurance and Risk Management Board are appointed by the Governor. The Connecticut General Statutes that pertain to the Board are §§ 4a-19, 4a-20, 4a-20a and 4a-21. . . .

The Insurance and Risk Management Board will be changing to a new Third Party Administrator (TPA) on January 1, 2012 to handle the automobile and highway liability claims. The new TPA is Constitution State Services (CSS). Constitution State Services is an LLC subsidiary of Travelers Insurance. Constitution State Services specializes in delivering customized, responsive claim administration services required by self-insurers and customers who purchase such services on a contract basis. The Board member which we are requesting an opinion is a Board Member, Chairman of the SIRMB Claims Committee and an employee of Discover Re. Discover Re is the “unbundled” Alternative Risk Transfer business unit of the Travelers for both individual risk and captive program customers.

This Board Member is not a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five percent or more of the total outstanding stock of any class of Discover Re [or Travelers Insurance or Constitution State Services].

In light of the new TPA contract between the State of Connecticut and Constitution State Services and in the interest of full disclosure, can this Board Member continue to be involved as a Board member of the Insurance and

Risk Board as well as the Chairperson of the Claims Committee.²

In a follow-up communication, the petitioner clarified that, although the Board member works specifically for Discover Re, he or she is a paid employee of Travelers Insurance; and that “if the Board member was to take official action that would affect Constitution State Services, there would be absolutely no personal financial gain to the Board member.”³

Analysis

Members of the Insurance and Risk Management Board are gubernatorial appointees,⁴ which makes them “public officials”⁵ and thus subject to the Ethics Code. Under its conflict provisions, specifically General Statutes §§ 1-84 (c), 1-85 and 1-86, a public official, with certain caveats, may not take official action or otherwise use his or her state position to influence any agency action, for personal financial gain or for the financial gain of certain family members or a “business with which he is associated.”⁶

The term “business with which he is associated” is statutorily defined in relevant part as any

entity through which business for profit or not for profit is conducted in which the public official . . . is a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five per cent or more of the total outstanding stock of any class “Officer” refers

²Petition for Advisory Opinion submitted by Daria Cirish to Citizen’s Ethics Advisory Board (December 5, 2011).

³Email from Daria Cirish to Brian O’Dowd, Deputy General Counsel, Office of State Ethics (January 27, 2012).

⁴General Statutes § 4a-19.

⁵Under § 1-79 (k), a “public official” includes, among others, “any person appointed to any office of the . . . executive branch of state government by the Governor”

⁶Advisory Opinion No. 95-15, Connecticut Law Journal, Vol. 57, No. 16, p. 3E (October 17, 1995).

only to the president, executive or senior vice president or treasurer of such business.⁷

That definition was at the heart of Advisory Opinion No. 98-2, which involved a state employee with a 22 percent ownership interest in Antigenics, Inc.—making it an “associated” business—and a 1 percent ownership interest in Antigenics, LLC.⁸ Because his 1 percent ownership interest in Antigenics, LLC, was insufficient, as such, to make the entity an “associated” business, the question was this: whether Antigenics, LLC, was an “associated” business by virtue of the fact that it was a subsidiary of Antigenics, Inc., with which (as noted above) the state employee was “associated.”⁹ Responding affirmatively, the former State Ethics Commission explained that, “because Antigenics, Inc. is the majority stock owner and holding company of Antigenics, LLC, any benefits derived by Antigenics, LLC would create a resultant benefit to Antigenics, Inc.”¹⁰

Here, the Board member at issue works specifically for Discover Re, which is simply a business unit of Travelers Insurance, which is the parent company of Constitution State Services. Applying the logic of Advisory Opinion No. 98-2, if Travelers Insurance is a business with which the Board member is “associated,” then the same must hold true of Constitution State Services, for any benefits derived by Constitution State Services would create a resultant benefit to Travelers Insurance. But, as noted above, with respect to Travelers Insurance, the Board member is not “a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five per cent or more of the total outstanding stock of any class”¹¹ Consequently, Travelers Insurance is not a business with which the Board member is “associated,” but rather his employer.

The question thus becomes whether the Board member may take official action for the financial benefit of one of his employer’s subsidiaries (namely, Constitution State Services). According to

⁷General Statutes § 1-79 (b).

⁸Connecticut Law Journal, Vol. 59, No. 34, p. 5D (February 17, 1998).

⁹Id.

¹⁰Id.

¹¹General Statutes § 1-79 (b).

Advisory Opinion No. 93-4, the Ethics “Code does not specifically prohibit a public official from taking official action which would benefit one’s employer, unless the employer had improperly influenced the” public official.¹² So if, under the Ethics Code, a public official is permitted to take official action that would benefit his employer, it follows that he may take official action that would benefit his employer’s subsidiary—assuming, of course, that he had not been improperly influenced by either entity.

By order of the Board,

Dated: 2/23/12

/s/ David W. Gay
Chairperson

¹²Connecticut Law Journal, Vol. 60, No. 41, p. 11C (April 13, 1999).