

CONNECTICUT STATE ETHICS COMMISSION
97 ELM STREET (REAR)
HARTFORD, CONNECTICUT 06106

89-B

In the Matter of a Request
for a Declaratory Ruling

Mr. Gordon Lagrow
Applicant

Mr. Gordon Lagrow has asked the Ethics Commission to issue a declaratory ruling as to whether Representative Carl Schiessl violated the Code of Ethics for Public Officials in representing an employer in an AIDS discrimination case brought before the Commission on Human Rights and Opportunities (CHRO) while serving on the AIDS Anti-Discrimination Task Force (Task Force) created by P.A. 87-527.

Mr. Lagrow filed a complaint with the CHRO on October 15, 1985 alleging that his former employer, Kenney Travel, discriminated against him because he had AIDS. Representative Schiessl was hired by Kenney Travel in September 1986 to handle the complaint.

In November 1986, Representative Schiessl was elected to the House of Representatives. In the summer of 1987 he was appointed to the Task Force which was established to: 1) review existing studies from state, federal and private agencies on AIDS; 2) assess the nature of the AIDS epidemic in the state; 3) develop a state policy to encourage confidential testing of those at risk; and 4) make recommendations on the most effective means to protect the civil rights of persons with AIDS while protecting the health, safety and welfare of the public. Representative Schiessl was appointed to the task force subcommittee which was formed to make recommendations. According to Mr. Lagrow, his case against Kenney Travel was discussed at the October 16, 1987 subcommittee meeting attended by Representative Schiessl.

On October 28, 1987, the Executive Director of the CHRO

wrote to Representative Schiessl asking him to withdraw as Kenney Travel's defense counsel. Representative Schiessl, in turn, wrote to the Ethics Commission for advice. The former Executive Director of the Ethics Commission, J.D. Eaton, responded to Representative Schiessl's request for advice with a staff letter (copy attached). According to Representative Schiessl, Attorney Eaton responded by letter because there was not enough time to seek an advisory opinion from the Commission. The substance of Attorney Eaton's advice was that although Representative Schiessl would not be violating the Code of Ethics by continuing to represent Kenney Travel, there might be the appearance of a conflict of interest.

Representative Schiessl did not withdraw from the case based on the advice he received from Attorney Eaton.

Subsequently, however, on November 10, 1988, Representative Schiessl did withdraw as defense counsel when his request to postpone a hearing was denied by the CHRO. Since Representative Schiessl was unable to attend the hearing, the case was turned over to another law firm. Representative Schiessl has stated that he will not again become involved with the case.

An administrative agency should have discretion to abstain from ruling on the merits of a request for a declaratory ruling when the issue raised has been definitely settled by a change in circumstances. Woman Aware v. Reagan, 331 N.W. 2d 88, 92 (Iowa 1983). Additionally, Representative Schiessl relied on the advice of the Ethics Commission's former Executive Director. Therefore, while the Commission sympathizes with Mr. Lagrow, his request for a declaratory ruling is moot.

By order of the Commission,



William A. Elrick
Chairperson

Dated 3 - 6 - 89