



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 92-8

Wife of Highway Construction Inspector Engaged in Business  
of Supplying Traffic Control Devices

The Ethics Commission has been asked whether an employee of the Department of Transportation (DOT) may, with propriety, serve as a highway construction inspector when a firm owned by his wife provides temporary traffic control devices to some contractors performing highway construction under DOT contracts.

The temporary traffic control devices furnished by the wife's firm are electronic flashers which are used to direct traffic and warn of dangers during highway construction. They are provided under subcontract to contractors, some of whom have prime contracts with DOT.

A highway construction inspector inspects the work, the materials, and the procedures of contractors constructing highways in Connecticut. With regard to temporary traffic control devices used to warn the public of construction hazards, he determines whether they are adequate in quantity and quality, whether they are placed and operating properly for safety, etc. Based on engineering standards and on specifications, he accepts or rejects procedures, material, and completed work. When the Code of Ethics for Public Officials (Chapter 10, Part I, General Statutes) first came into effect the DOT employee in question was inspector for a contract where his wife's firm provided electronic flashers to the prime contractor.

The highway construction inspector, as a DOT employee, is a State employee (subsection 1-79(k), General Statutes) subject to the Code. His wife's firm is a "business with which he is associated". Subsection 1-79(a), General Statutes. The situation of a State employee having the power to inspect or reject costly work which may utilize safety equipment provided by his wife's firm is ripe for violations of the principles of the Codes of Ethics for Public Officials, even if the employee makes a dedicated effort to avoid them.

The problems are most obvious when he is inspector for a project in which the contractor is using traffic control devices provided by his wife's firm. In deciding whether traffic control devices supply proper warning to the public he would be required to take official action which would affect the financial interests of his spouse and of a business with which he is associated. Under the circumstance the Code directs him to "prepare a written statement signed under penalty

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of false statement describing the matter requiring action and the nature of the potential conflict and deliver a copy of the statement to his immediate superior, if any, who shall assign the matter to another employee...." Subsection 1-86(c), General Statutes.

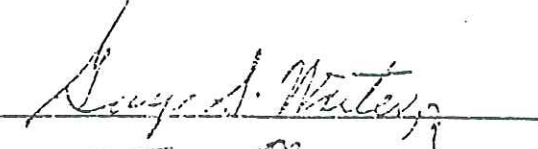

A similar potential conflict of interests exists when he is assessing the acceptability on the job of electronic flashers furnished by firms in competition with his wife's. For example, it could affect the financial interests of his wife and her firm if he were to demand additional devices when the firm supplying them did not have a sufficient number to meet the expressed need, or were to rule unsuitable devices different from those used by his wife's firm. Therefore, he should take the same action with regard to electronic flasher devices furnished by competitors as in the case of those from his wife's firm. See Ethics Commission Advisory Opinion No. 81-18, 43 Conn. L.J. No. 23, p. 43A (Dec. 8, 1981), and Opinions cited therein.

The situation also presents an unacceptable risk of violation of subsection 1-84(c), General Statutes. First there is the opportunity for someone with access to Transportation Department information not available to the public to use the information, consciously or subconsciously, to benefit his wife's firm. There is a real danger that the inspector's office or position will be used to obtain financial gain for his wife's firm. A prime contractor doing work on State projects not being inspected by the inspector in question, or even on a project unrelated to the State, might well utilize devices furnished by the firm of the inspector's wife in the hope of ingratiating itself with the inspector, or at least not antagonizing him, just in case the construction firm gets a subsequent contract with the State in the geographic area which the inspector is serving. In addition to such unintentional use of office, there is the opportunity for conscious use of office in violation of not only subsection 1-84(c) but also subsections 1-84(f) and 1-84(g), General Statutes.

Finally, should the situation permit the wife's firm to provide electronic flasher devices for State projects and the agreement be considered a contract with the State, the contract would be in violation of the Code and voidable unless reached in conformance with subsection 1-84(i), General Statutes.

In summary, it seems clear that if the DOT employee is assigned the duties of a highway construction inspector, his wife's firm should not supply temporary traffic control devices to construction firms which are doing or may do business with the State on DOT contracts.

By order of the Commission,

  
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Dated November 3, 1982