



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-16

Private Employment Related to the Duties of the State's  
Fair Housing Coordinator

The Executive Director of the Commission on Human Rights and Opportunities (CHRO), Arthur L. Green, has asked the Ethics Commission whether a potential conflict of interests exists between the official duties of CHRO's Fair Housing Coordinator, Cordula B. DiAugustino, and her private employment as a realtor and teacher of fair housing courses.

Established by Section 46a-52, General Statutes, the CHRO administers a number of anti-discrimination laws. Among these provisions is Section 46a-64, id., which prohibits discriminatory public accommodation practices, including housing discrimination. Violation of this provision is punishable by a fine of up to one hundred dollars, thirty days imprisonment, or both. Id. at subsection (c).

As the CHRO's Fair Housing Coordinator, Ms. DiAugustino is responsible for coordinating and conducting audit and investigative tests of housing opportunities within the State.

An investigative test is initiated when a citizen complaint alleging housing discrimination is received by the CHRO. If the allegation involves one of twelve communities that have been selected confidentially by the Agency, Ms. DiAugustino arranges for a test. Specifically, two home seekers, one of whom matches the characteristics of the victim of the alleged discrimination, are sent to the target site. Their treatment by the person under suspicion can then be compared to ascertain if evidence of housing discrimination exists. Although Ms. DiAugustino oversees this procedure, she exercises little discretion in the investigative test process.

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In contrast, the audit test system allows the Fair Housing Coordinator substantial discretion. She makes the initial selection of sites to be tested in the twelve community area. Specifically, utilizing current advertisements, Ms. DiAugustino chooses six targets - two real estate agents, two property management companies, and two landlords - for a round of audit tests. As with the investigative process, two testers are sent to each of the target sites. In every case the test results are returned to Ms. DiAugustino, who then decides whether or not a housing discrimination complaint should be filed.

Before entering public service Ms. DiAugustino's income was derived primarily from writing, speaking, and teaching about fair housing laws and practices. Her teaching has included continuing education work for the Connecticut Association of Realtors as well as for various educational institutions throughout the State. Ms. DiAugustino also has been active in the real estate business in Connecticut and Massachusetts. She is a licensed real estate broker in both states as well as Rhode Island.

Upon assuming her State duties Ms. DiAugustino ceased listing and selling real estate in Connecticut. However, she wishes to maintain her real estate broker's license in the State and continue teaching her fair housing course, if these outside activities do not create a conflict of interests under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

In pertinent part, the Code of Ethics provides that no State employee shall accept other employment which will impair independence of judgment as to official duties or induce disclosure of confidential information acquired in State service, nor may the employee use his or her State position or such confidential information for personal financial benefit. Subsections 1-84(b) and (c), General Statutes.

By placing her Connecticut real estate broker's license in an inactive status Ms. DiAugustino has shown proper concern for the conflict of interests inherent in her engaging in such work within the State. The public in general, and the real estate industry in particular, would have little confidence in the objectivity of a Fair Housing Coordinator who was actively involved in the business she was authorized to regulate. At a minimum, she would be viewed as having accepted employment which impaired her independence of judgment and which could very well induce her to disclose confidential information in violation of 1-84(b). She would also be in a position to use her State

office, and confidential information gained in State service, to further her private financial interests in violation of 1-84(c).

As long as Ms. DiAugustino remains inactive in the Connecticut real estate industry, retention of her realtor's license should present no problems under the Code. Additionally, her involvement in real estate work outside Connecticut should be unobjectionable, if she avoids financial entanglements with individuals and businesses subject to her regulatory authority.

For essentially the same reasons that preclude the Fair Housing Coordinator's involvement in the Connecticut real estate industry, she also must refrain from teaching, for compensation, those individuals subject to her official oversight. Although Ms. DiAugustino's teaching predates her State appointment, she is now in a position where this outside employment could impair her independence of judgment as to her official duties. When selecting targets for audit tests, it would be only natural for Ms. DiAugustino to pass over those who have taken her course. Absent the element of financial gain such a criterion would appear appropriate, for those with interest in and knowledge of the State's fair housing laws would seem, in general, less likely to violate these precepts than those without such interest or schooling. However, use of this standard becomes inappropriate under the Code when the Fair Housing Coordinator's private financial interests are involved.

In addition, regardless of Ms. DiAugustino's honesty and expertise, she is in a position where inadvertent use of office for financial gain is almost inevitable. It would make little sense for those involved in Connecticut's real estate industry to take a fair housing course from anyone but Ms. DiAugustino, when they have the opportunity to ingratiate themselves with the individual who has such significant discretionary State authority over their business interests. Furthermore, those subjected to audit and complaint who had not taken Ms. DiAugustino's course would be in a position to claim that they had been chosen because of their failure to provide the Fair Housing Coordinator with additional private income.

As the Commission has consistently held in the past, such outside paid instruction of a group over which the State employee wields official authority is too fraught with conflicts to be permitted under the Code. See, e.g., Ethics Commission Advisory Opinions Nos. 84-10, 46 Conn. L.J. No. 2, p. 1D (July 10, 1984) and 83-5, 44 Conn. L.J. No. 39, p. 12B (March 29, 1983). In order to avoid these conflicts, Ms. DiAugustino

should furnish private, compensated fair housing instruction only to those individuals not subject to her State authority.

In summary, because of inherent conflicts of interests the State's Fair Housing Coordinator should not be involved in the real estate business within Connecticut, nor should she provide fair housing instruction for pay to those under her official authority. She may maintain her Connecticut realtor's license in an inactive status, and engage in real estate work outside Connecticut which does not involve her with those also conducting such business within the State. Additionally, she may teach fair housing courses for compensation as long as this instruction is confined to those not subject to her regulatory powers.

By order of the Commission,



William A. Elrick  
Chairperson

Dated

9/19/88