



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-28

Acceptance of Outside Employment by the Chairman of the  
Banks Committee of the General Assembly

Senator Steven C. Casey, Chairman of the Banks Committee of the General Assembly, has asked the Ethics Commission for advice regarding the following situation.

Senator Casey owns and operates a real estate business. The firm, Casey Realty, deals in residential, commercial, and industrial property. In the past, however, its income has been derived exclusively from the purchase and sale of residential property. The Senator now has been asked to help a group of investors find a bank to purchase, either in part or in its entirety. If successful, Senator Casey would be compensated by means of a fixed fee. The investors in question currently have a number of holdings including an interest in an out-of-state mid-sized commercial bank, but have no ownership interest in any Connecticut bank.

The Banks Committee has "...cognizance of all matters relating to banks, savings banks, state banks and trust companies, [and] savings and loan associations..." The Joint Rules of the Senate and House of Representatives, p. 21 (1989).

Specifically, Senator Casey has asked whether, under the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I, it would be proper for him to accept the employment in question, and, if so, what restrictions he must observe.

As the Commission has previously stated, it is exceedingly difficult to apply the Code's prohibitions on use of office and acceptance of outside employment which will impair independence of judgment (Conn. Gen. Stat. §§1-84(b) and (c)) to the members of Connecticut's part time General Assembly. The great majority of legislators must, of economic necessity, pursue outside employment while in state service. Under the circumstances, conflicts of interests are inevitable. In reaching its decisions regarding legislators the Commission must determine when these conflicts are so significant as to require

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prohibiting or restricting the conduct in question. Ethics Commission Advisory Opinion No. 88-9, 49 Conn. L.J. No. 48, p. 5D (May 31, 1988).

In making its determinations the Commission has focused on whether the legislator had any specific, on-going authority over the business, industry, or profession in question. Ethics Commission Advisory Opinion No. 84-12, 46 Conn. L.J. No. 17, p. 1C (October 23, 1984). Additionally, the Commission has based its previous rulings on whether the legislator's employment was a financially significant new undertaking or merely a continuation, at no appreciably greater level, of work commenced before the individual assumed the public office in question. Ethics Commission Advisory Opinions Nos. 80-21, 42 Conn. L.J. No. 26, p. 23 (December 23, 1980) and 81-1, 42 Conn. L.J. No. 32, p. 10 (February 3, 1981). In particular, the Commission has been concerned over possible conflicts involving a committee chairman, because of the substantial power he or she holds over persons subject to the committee's jurisdiction. See, e.g., Ethics Commission Advisory Opinions Nos. 88-9, 49 Conn. L.J. No. 48, p. 5D (May 31, 1988) and 89-7, 50 Conn. L.J. No. 44, p. 1C (May 2, 1989).

In this instance, the investors Senator Casey wishes to represent are not currently under the Banks Committee's jurisdiction, since the only bank they own is outside Connecticut. Additionally, according to Senator Casey, the investors' out-of-state bank has not shown a noticeable interest in any of the interstate banking legislation which comes before the Senator's committee. As a result, unless the prospective seller is a bank subject to the Senator's official authority, there is little apparent reason to suspect that the investors wish to hire the Senator for any reason other than his expertise in both banking and real estate matters.

If, however, Senator Casey, on behalf of the investors, attempts to purchase an interest in a Connecticut bank, it will be difficult, if not impossible, to avoid inadvertent use of his public office in violation of §1-84(c). Regardless of the Senator's good intentions, it is only logical to assume that many bankers subject to his official authority will, if at all possible, seek to enter into an agreement which would financially benefit one who wields such sweeping powers over Connecticut banking. Additionally, regardless of the Senator's honesty, many will believe that by arranging and directly benefitting from the sale of a Connecticut bank the Chairman of the Banks Committee has accepted outside employment which will impair his independence of judgment as to his official duties in violation of §1-84(b). Similar concerns would be present

if, on behalf of the investors, the Senator sought to arrange the purchase of an out of state bank that had a known interest in Connecticut's interstate banking legislation or other important matters within the Banks Committee's jurisdiction.

In summary, while the Chairman of the Banks Committee may represent the investors in question, he may not, on their behalf, seek to arrange the purchase, in whole or in part, of a Connecticut bank or of an out-of-state bank known by him to have an interest in legislation which must come before the Banks Committee.

The Ethics Commission is not unmindful that the foregoing decision will seriously restrict Senator Casey's outside business opportunities in this instance. The Commission believes, however, that these restrictions are essential, under the provisions of the Code of Ethics for Public Officials, to maintain and enhance public confidence in the integrity of Connecticut's state government.

By order of the Commission,



William A. Elrick  
Chairperson

Dated 10 - 2 - 89

