

CONNECTICUT STATE ETHICS COMMISSION
30 TRINITY STREET
HARTFORD, CONNECTICUT 06115

In the Matter of a Request
for a Declaratory Ruling

80-B

Donald J. Long, Commissioner
of Public Safety
Applicant

Member of the Division of State Police Representing for
Compensation Division Employees in Disputes with the Division

A State Police lieutenant who is also an attorney, on prolonged sick leave pending action on his application for disability retirement, has accepted employment with a law firm. Before going on sick leave, the officer was a troop commanding officer. Prior to his assignment as a troop commanding officer he had been Commanding Officer, Labor Relations for the State Police Division in the Department of Public Safety. As such, his duties included serving on the negotiating team which represented management in collective bargaining, and administering the collective bargaining agreement between the Division and bargaining unit employees. The Ethics Commission has been asked whether the officer may, as private counsel, represent a present employee of the State Police Division in a disciplinary matter being handled in accordance with the current collective bargaining agreement or a retired employee of the Division who is contesting the method for computing the daily rate of pay being used to determine the amount of the payment to the employee for accrued and unused vacation leave and sick leave upon retirement. The latter employee, prior to his retirement, had been a direct subordinate of the lieutenant in his troop.

Although on prolonged sick leave, probably to be followed by retirement, the lieutenant is in State service and a State employee, subsection 1-79(k), General Statutes, subject to the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. The question presented therefore involves a current, not a former or retired, State employee.

A member of the Division of State Police should not for compensation represent another who is engaged in a dispute with the Division, whether it involves a disciplinary matter brought by the Division or a payroll matter which ultimately may be decided by another State agency. The Ethics Commission has often discussed the necessity of avoiding the appearance, as well as the actuality, of a conflict of interest. See, e.g., Advisory Opinion No. 80-7, 41 Conn. L.J. No. 37, p. 21. Here the appearance of a conflict of interest is overwhelming, whether or not an actual conflict exists.

The appearance of a conflict is particularly strong when the employee had the duties of the lieutenant in question, helping to negotiate collective bargaining agreements and then administering them, for the terms of the agreements affect a great many aspects of

the relationship between management and members of the collective bargaining unit, including disciplinary action and matters affecting pay. Opportunities for a substantial conflict with the proper discharge of the lieutenant's duties while he was Commanding Officer, Labor Relations would be widespread. In violation of subsection 1-84(a) and section 1-85, General Statutes, he could negotiate or administer an agreement in such a way as to generate future employment as an attorney, or simply spend his time combing personnel files for potential claims against the Division and, rather than resolving them, collecting them for future action. The possibility of using for private gain confidential information acquired in the course of duty is obvious, particularly with regard to the disciplinary matter. Subsections 1-84(b), 1-84(c), General Statutes. If one member of management might be on the other side of a dispute at some future date, members of management would be loath to discuss anything with each other for fear that the information shortly might be put to use against the Division. If such representation were allowed, the potential for independence of judgment being impaired by the prospect of profitable future employment and the potential for improper use of office, in violation of subsections 1-84(b) and 1-84(c), General Statutes would shake public confidence in the administration of the State agency.

There are no facts whatsoever indicating that the lieutenant did not fulfil his responsibilities faithfully and properly while he was Commanding Officer, Labor Relations. Nonetheless, both as a State employee who is a member of a State law enforcement agency much in the public eye and as an attorney he has a duty to avoid even the appearance of impropriety.

In summary, there is an unacceptable appearance of impropriety if a person with all the contacts and friendships inherent in being a present ranking member of the Division of State Police represents professionally someone with a relationship adverse to the Division on matters closely related to the person's recent official duties in the Division.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated April 7, 1980