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April 6, 2005

ADVISORY OPINION NO. 2005-12

Ms. Kristen Turner
Social Service Caseworker
Child Welfare Division
Mobile County Department of Human Resources
118 Crenshaw St.
Mobile, Alabama 36606

Conflict Of Interest/Social Service
Caseworker In Child Welfare Division Of
The Mobile County Department Of Human
Resources (DHR) Accepting Position With
Private Foster Care Agency Which Conducts
Business With DHR

A former Social Service Caseworker in the
Child Welfare Division of the Mobile
County Department of Human Resources
(DHR) may not, for a period of two years
after leaving the Department of Human
Resources, accept employment with a
private foster care agency, when her position
with DHR required her to interact with the
private foster care facility in making
referrals/placements to that or other foster
care agencies.

In addition, the employment would require
her to interact with the Department of
Human Resources, which is barred by the
"Revolving Door" provisions of the Ethics
Law for a period of two years after her
leaving DHR.

Ms. Kristen Turner
Advisory Opinion No. 2005-12
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Dear Ms. Turner:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May a former Social Service Caseworker in the Child Welfare Division of the Mobile County Department of Human Resources (DHR) accept employment with a private foster care agency that interacts with the Department of Human Resources?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

Kristen Turner is a Social Service Caseworker in the Child Welfare Division of the Mobile County Department of Human Resources (DHR). She works with children in foster care. She would like to leave DHR and go to work for a private foster care agency. To the best of her knowledge, this private foster care agency is not licensed by DHR, but does work on a contract basis for the placement of children in their therapeutic foster homes. She states that some of the foster care children in her caseload were placed through this agency, and one is still placed in a foster home through this agency. She states that the agency in question is Therapeutic Programs, Inc. (TPI).

Ms. Turner states that she is a front-line worker, not in a position to make any decision regarding contracts, and there would be no financial benefit to her from previous contact with this agency. She states that the position she would be taking is also a front-line type position, and not supervisory.

Ms. Turner's past direct interactions with this agency were for information exchanged regarding the DHR foster child placed in their foster home or to make visitation arrangements. After a child is placed in their program, she communicates with their family consultant about the child's needs. For example, say a child in DHR custody is placed in a TPI foster home. The TPI contact for that child is the family consultant, who makes contact with the child at least one time a week. During a contact meeting with the family consultant, the child asks him/her when he or she will be allowed to spend the night (have an unsupervised visit) with his or her mother. The family consultant will then call Ms. Turner to ask on the child's behalf when such a visit might occur. When a child is placed through the TPI Program, at the initial meeting Ms. Turner is

responsible for signing a 724 form authorizing payment to TPI for that child. She states that this is standard practice for all front-line caseworkers when a child in their caseload goes to a new placement. However, she is not responsible for setting the payment rate, she merely makes sure the payment paperwork has been completed. She has talked on the phone and in person regarding plans for a specific child to family consultants and their supervisors (such as who would pick up a child after school or when to have an ISP meeting with the child's mother). She states that she has attended joint ISP meetings with TPI employees regarding a specific child and his needs/goals. She states that all her interactions with TPI have been specific to a foster child. She was not involved in making general decisions that affected anyone other than the specific foster child in question. She states that her position with TPI, if approved, would be as a family consultant.

Ms. Turner states that when a child in her foster care caseload needs a therapeutic placement, a referral is completed and given to the therapeutic liaison in her office. Ms. Turner copies the application and accompanying information, and sends it to the different agencies in her area for review. The agencies then contact her to answer specific questions or to arrange a "match-making" between the child and his or her potential foster parents. The child will ultimately be placed through whichever agency can provide the best match for that particular child's needs. She states that the agency for which she would like to work, is one of five agencies that gets the referral. Sometimes an emergency "assessment" placement is needed, and there is not time to go through the match process. The agency for which she would like to work, also offers these assessment placements. In that case, the child would be placed through whichever agency had an opening. An assessment placement typically lasts for 30 to 90 days, and during that time, the agency will monitor the child closely and make a recommendation as to the best type of placement to fit that child's needs. Close to the end of the assessment, the above-mentioned match process begins and referrals are made to all the agencies.

Mr. Turner states that her dealings with this company have been in the context of submitting referrals and placing children in regular therapeutic or assessment placements through the office liaison. As front-line workers, they are instructed to not contact the agencies directly for placements, but to go through the liaison, so all the agencies can be given equal opportunity. Once the child is placed in a therapeutic foster home through the agency for which she would like to work, she communicates with their case manager to arrange for the child's needs, such as visitation with parents, doctors appointments, school transfers, etc. She states that they hold ISP meetings in conjunction with that agency's treatment plan meetings to plan for the child's future needs and eventual discharge, if that is appropriate.

Ms. Turner states that, if hired by this company, she would be required to interact with DHR. She would be the person the DHR worker would call to arrange for the child's needs, and would participate in joint meetings with the DHR worker. She would not be responsible for

making the decision to take the child into the program. She states that it is her understanding that she would simply be managing the foster agency's case after the child is accepted.

The Alabama Ethics Law, Section 36-25-1(23), Code of Alabama, 1975, defines a public employee as:

“(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income.”

Section 36-25-1(8) defines a conflict of interest as:

“(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.”

Section 36-25-1(2) defines a business with which the person is associated as:

“(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED. Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.”

Section 36-25-13(b) states:

“(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such

prohibition shall not include a former employee of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(c) states:

“(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.”

Section 36-25-13(d) states:

“(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.”

The “Revolving Door” provisions of the Alabama Ethics Law prohibit **all** public officials and public employees from representing their new employer back with the agency, department or commission on which they formerly served or by which they were formerly employed. This is a strict prohibition, and it applies to everyone regardless of what duties they performed in the public sector, and what duties they would be performing in the private sector.

Based on this, for a period of two years after leaving DHR, Ms. Turner may not, on behalf of her new employer, the foster care agency, interact or represent that foster care agency back with the Department of Human Resources.

In addition, in the facts as provided, it appears that Ms. Turner has been involved in the referral process, and has had professional dealings on behalf of DHR with the foster care agency for which she would like to go to work.

Based on the facts as provided and the above law, a former Social Service Caseworker in the Child Welfare Division of the Mobile County Department of Human Resources (DHR) may not, for a period of two years after leaving the Department of Human Resources, accept employment with a private foster care agency, when her position with DHR required her to

interact with the private foster care facility in making referrals/placements to that or other foster care agencies.

In addition, the employment would require her to interact with the Department of Human Resources, which is barred by the "Revolving Door" provisions of the Ethics Law for a period of two years after her leaving DHR.

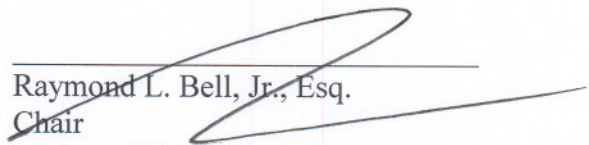
CONCLUSION

A former Social Service Caseworker in the Child Welfare Division of the Mobile County Department of Human Resources (DHR) may not, for a period of two years after leaving the Department of Human Resources, accept employment with a private foster care agency, when her position with DHR required her to interact with the private foster care facility in making referrals/placements to that or other foster care agencies.

In addition, the employment would require her to interact with the Department of Human Resources, which is barred by the "Revolving Door" provisions of the Ethics Law for a period of two years after her leaving DHR.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on April 6, 2005.



Raymond L. Bell, Jr., Esq.
Chair
Alabama Ethics Commission