



# STATE OF ALABAMA ETHICS COMMISSION



## COMMISSIONERS

Anthony Humphries, Chair  
Dr. Jewell W. Henderson, Vice-Chair  
Timothy P. Chinaris, Esq.  
Stewart Hill Tankersley, M.D.  
Josephine M. Venable

MAILING ADDRESS  
P.O. BOX 4840  
MONTGOMERY, AL  
36103-4840

STREET ADDRESS  
RSA UNION  
100 NORTH UNION STREET  
SUITE 104  
MONTGOMERY, AL 36104

James L. Sumner, Jr.  
Director

TELEPHONE (334) 242-2997  
FAX (334) 242-0248  
WEB SITE: [www.ethics.alabama.gov](http://www.ethics.alabama.gov)

February 5, 2014

## ADVISORY OPINION NO. 2014-01

William A. Gunter, Esq.  
General Counsel  
Department of Conservation and Natural Resources  
Room 474  
64 N. Union Street  
Montgomery, Alabama 36104

Revolving Door/Former Alabama Department Of  
Economic And Community Affairs (ADECA)  
Programs Manager Serving As Assistant Director  
Of State Parks For The Department Of  
Conservation And Natural Resources And  
Interacting With ADECA

The "Revolving Door" provisions of the Alabama  
Ethics Law do not prohibit the former State Trails  
Coordinator and Recreation and Conservation  
Programs Manager with the Alabama Department  
of Economic and Community Affairs (ADECA)  
from interacting with ADECA on behalf of the  
Department of Conservation and Natural Resources,  
his current employer, as there is no personal gain  
involved, nor is there a financial benefit to the  
current employer.

A former ADECA Programs Manager may serve  
with the Department of Conservation and Natural  
Resources and interact with ADECA on behalf of  
the Department of Conservation and Natural  
Resources, as there is a public interest involved and  
there is no personal gain to the former ADECA  
employee or the current employer.

This opinion applies solely to a State employee representing their agency before another State agency. Any scenario other than that set out in this opinion will be addressed separately.

Dear Mr. Gunter:

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 the former State Trails Coordinator and Recreation and Conservation Programs Manager with the Community and Economic Development Division of the Alabama Department of Economic and Community Affairs interact with and/or seek funding from ADECA on behalf of the State Parks of the State of Alabama?

### **FACTS AND ANALYSIS**

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

The Department of Conservation and Natural Resources has recently appointed Rob Grant to be Assistant Director of State Parks. Prior to his recent appointment, Mr. Grant served for a number of years as State Trails Coordinator and Recreation and Conservation Programs Manager with the Community and Economic Development Division of the Alabama Department of Economic and Community Affairs (ADECA). A number of programs administered by ADECA provide funds for use by State Parks.

In his capacity as Assistant Director of State Parks, Mr. Grant will likely have occasion to interact with and/or receive funding or other benefits from his former agency employer on behalf of State Parks. Mr. Grant will receive no personal gain from his interaction with his former employer, but will only be acting on behalf of the State Parks Division of the Department of Conservation and Natural Resources.

Based on the "Revolving Door" provisions contained in Section 36-25-13, the Department of Conservation and Natural Resources requests this opinion.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(26) defines a public employee as:

“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(27) defines a public official as:

“Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.”

Section 36-15-1(2) defines a business with which the person is associated as:

“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(a) states:

“No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(b) states:

“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.”

The “Revolving Door” provisions of the Alabama Ethics Law are designed to prevent a public official or public employee from using the influence they may have with their former employer in a way that would either provide a personal benefit to them or to their new employer. While the “Revolving Door” provisions are silent as to a State employee going to work for another State agency and representing that State agency back before their former State agency, this was surely not the intent of the drafters.

In the scenario before the Commission, there is a public purpose involved, i.e., grants and/or funding for the State Parks of Alabama. There is no personal benefit either to Mr. Grant or to his current employer, the Department of Conservation and Natural Resources.

It should be pointed out that this analysis is specific to this fact situation and is not intended to be applied to other situations. Each scenario will be analyzed on its own set of facts.

Based on the above law and the facts as provided, the “Revolving Door” provisions of the Alabama Ethics Law do not prohibit the former State Trails Coordinator and Recreation and Conservation Programs Manager with the Alabama Department of Economic and Community Affairs (ADECA) from interacting with ADECA on behalf of the Department of Conservation and Natural Resources, as there is no personal gain involved, nor is there a financial benefit to the current employer.

A former ADECA Programs Manager may serve with the Department of Conservation and Natural Resources and interact with ADECA on behalf of the Department of Conservation and Natural Resources, as there is a public interest involved and there is no personal gain to the former ADECA employee or the current employer.

This opinion applies solely to a State employee representing their agency before another State agency. Any scenario other than that set out in this opinion will be addressed separately.

### **CONCLUSION**

The “Revolving Door” provisions of the Alabama Ethics Law do not prohibit the former State Trails Coordinator and Recreation and Conservation Programs Manager with the Alabama Department of Economic and Community Affairs (ADECA) from interacting with ADECA on behalf of the Department of Conservation and Natural Resources, as there is no personal gain involved, nor is there a financial benefit to the current employer.

William A. Gunter, Esq.  
Advisory Opinion No. 2014-01  
Page five

A former ADECA Programs Manager may serve with the Department of Conservation and Natural Resources and interact with ADECA on behalf of the Department of Conservation and Natural Resources, as there is a public interest involved and there is no personal gain to the former ADECA employee or the current employer.

This opinion applies solely to a State employee representing their agency before another State agency. Any scenario other than that set out in this opinion will be addressed separately.

**AUTHORITY**

By 3-0 vote of the Alabama Ethics Commission on February 5, 2014.



---

Anthony Humphries  
Chair  
Alabama Ethics Commission