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ADVISORY OPINION NO. 2016-03

Ms. Karen Trussell
Director
Family Court Division
Administrative Office of Courts
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Montgomery, Alabama 36104

Revolving Door/Former Director Of The
Family Court Division Of Administrative
Office Of Courts (AOC) Entering Into
Consulting Agreement With Private Entity

The former Director of the Family Court
Division for the Administrative Office of
Courts (AOC) may enter into a consulting
agreement with Casey Family Programs
when she did not personally participate in
the direct regulation, audit or investigation
of Casey Family Programs while employed
by AOC, nor was she involved in any
contracts between AOC and Casey Family
Programs.

Revolving Door/Former Director Of The
Family Court Division Of AOC Interacting
With AOC Employees Prior To The
Expiration Of Two Years

While the former Director of the Family
Court Division for the Administrative Office
of Courts (AOC) may have minimal
interaction with AOC employees by inviting
them to training sessions conducted by
Casey Family Programs, she may not
represent Casey Family Programs before
AOC for a period of two years after having
left her employment with AOC.

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Dear Ms. Trussell:

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

QUESTIONS PRESENTED

- 1) May the former Director of the Family Court Division for the Administrative Office of Courts (AOC) enter into a consulting agreement with a private entity over which she did not personally participate in the direct regulation, audit or investigation of that private entity, nor was she involved in any contracts between AOC and that entity?
- 2) May the former Director of the Family Court Division for AOC have minimal interaction with AOC employees by inviting them to training sessions conducted by a private entity with which she contracts, when the interaction is limited to extending invitations to training sessions and not representing that private entity before AOC?

FACTS AND ANALYSIS

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

Karen Trussell retired in December of 2015 as the Director of the Family Court Division for the Administrative Office of Courts (AOC). As Director of the Family Court Division, her responsibilities included overseeing and providing support for various projects under AOC, including certifications, re-certifications and other training. The training and certifications dealt with juvenile probation officers, family courts, violence against women and other programs that fall under the Family Court Division for the Administrative Office of Courts.

Ms. Trussell has been offered the opportunity to contract with Casey Family Programs. Casey Family Programs is the largest child welfare foundation in the United States. They have been working with DHR and AOC in a judicial/child welfare partnership. In her position as the Family Court Director at AOC, she has attended meetings and seminars funded by the Casey Foundation. She has never been an employee of any child welfare agency, nor received any funding from Casey Family Programs.

The Administrative Office of Courts is the administrative division that oversees the Court system in the State of Alabama.

Ms. Trussell's only interaction with Casey Family Programs while employed by AOC consisted of attending Casey-led meetings and seminars. She distributed seminar invitations to a select group of juvenile judges, parents, attorneys, etc. and did attend one large Casey conference in 2014 and two smaller regional conferences in 2015. She also served on a collaborative committee with State DHR representatives, as well as a small group of judges.

She became acquainted with Casey Family Programs by serving as the judicial point person for the Judicial/Child Welfare Initiative. The Child Welfare Initiative is a program focused on eliminating the need for foster care. AOC utilized no funding from Casey Family Programs, nor provided funding to Casey Family Programs.

During her time at AOC, she was not involved in any contracts with Casey Family Programs, nor had any oversight authority over Casey Family Programs.

Casey Family Programs is interested in contracting with her to work with juvenile judges by coordinating training that is funded by Casey Family Programs. The judges are elected officials in the United Judicial System. The AOC Administrative Director of Courts and the attorney for the Family Court Division will be invited to the training, but this will be her only interaction with AOC. She will not be representing Casey Family Programs in any business dealings with AOC.

She states that if she accepts the contract to work on the Judicial/Child Welfare Initiative, it will be as an independent contractor. She would not be a Casey employee or a Casey consultant. She would not be a representative of Casey Family Programs or of the Administrative Office of Courts. Her only interaction with AOC would be to invite the future Family Court Director and his/her designee to any meetings and/or seminars. Her primary work will be with members of the elected judiciary and not the Administrative Office of Courts. She would be paid a flat fee under the contract.

Ala. Code § 36-25-13(c) (1975) 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."

Ala. Code § 36-25-13(e) (1975) states:

“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 place certain limitations on what public officials and public employees may do after they leave the public sector. In the scenario set out by Ms. Trussell, the above Code Sections are applicable.

Ms. Trussell may not accept employment with a private entity over whom she has personally participated in the direct regulation, audit or investigation of, or where she was involved in the awarding of a contract.

Based on the facts provided, this does not appear to be the case with Ms. Trussell’s dealings with Casey Family Programs. Therefore, Section 13(e) would not prohibit Ms. Trussell from becoming either an employee of Casey Family Programs or an independent contractor with that entity.

Also applicable is Section 13(c) which would prohibit Ms. Trussell, for a period of two years after leaving AOC, from representing her new employer, either Casey Family Programs or her own consulting business, with her former employer, the Administrative Office of Courts.

Black’s Law Dictionary, Fifth Edition defines “represent” as “to represent a person is to stand in his place; to speak or act with authority on behalf of such person; to act as his substitute or agent.”

While there appears to be a minimal amount of interaction in the scenario set out by Ms. Trussell, it would not rise to the level of “representing” in that, she would merely be inviting employees of AOC to attend the training that was being put on by Casey Family Programs.

Based on the facts as provided and the above law, the former Director of the Family Court Division for the Administrative Office of Courts (AOC) may enter into a consulting agreement with Casey Family Programs when she did not personally participate in the direct regulation, audit or investigation of Casey Family Programs while employed by AOC, nor was she involved in any contracts between AOC and Casey Family Programs.

While the former Director of the Family Court Division for the Administrative Office of Courts may have minimal interaction in inviting AOC employees to training sessions on behalf

of Casey Family Programs, she may not represent Casey Family Programs before AOC for a period of two years after having left their employment.

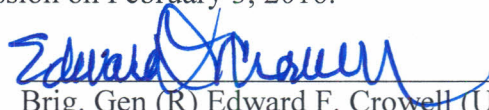
CONCLUSION

The former Director of the Family Court Division for the Administrative Office of Courts (AOC) may enter into a consulting agreement with Casey Family Programs when she did not personally participate in the direct regulation, audit or investigation of Casey Family Programs while employed by AOC, nor was she involved in any contracts between AOC and Casey Family Programs.

While the former Director of the Family Court Division for the Administrative Office of Courts (AOC) may have minimal interaction with AOC employees by inviting them to training sessions conducted by Casey Family Programs, she may not represent Casey Family Programs before AOC for a period of two years after having left her employment with AOC.

AUTHORITY

By 3-0 vote of the Alabama Ethics Commission on February 3, 2016.


Brig. Gen (R) Edward F. Crowell (USAF)
Chair
Alabama Ethics Commission