

STATE OF ALABAMA
ETHICS COMMISSION



COMMISSIONERS

Camille S. Butrus, Chairman
Helen Shores Lee, Esq., Vice-Chairman
John H. Watson
Lewis G. Odom, Jr., Esq.
Russell Jackson Drake, Esq.

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

Hugh R. Evans, III
Assistant Director
General Counsel

TELEPHONE (334) 242-2997
FAX (334) 242-0248

December 2, 1998

ADVISORY OPINION NO. 98-59

Rochelle S. Baker
Departmental Operations Specialist
State Licensing Board for General Contractors
400 S. Union Street, Suite 235
Montgomery, Alabama 36130

Revolving Door/Retired Departmental
Operations Specialist Of The State
Licensing Board For General Contractors
Going To Work For The Camber
Corporation, Which Has Contracted With
The State Licensing Board.

A retired Departmental Operations
Specialist of the State Licensing Board for
General Contractors may accept
employment with the Camber Corporation
which has previously contracted with the
State Licensing Board, as she had no
decision-making authority over the
contractual process, but merely
demonstrated to Camber Corporation the
system in use at the time.

A retired Departmental Operations
Specialist of the State Licensing Board for
General Contractors may not, for a period of
two years after leaving the State Licensing
Board for General Contractors, represent the
Camber Corporation before the State
Licensing Board for General Contractors.

Rochelle S. Baker
Advisory Opinion No. 98-59
Page two

Dear Ms. Baker:

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 retired Departmental Operations Specialist of the State Licensing Board for General Contractors go to work for the Camber Corporation, which has contracted with the State Licensing Board without being in violation of the Alabama Ethics Law?

FACTS AND ANALYSIS

Rochelle S. Baker was a Departmental Operations Specialist of the State Licensing Board for General Contractors. She retired from public service effective September 1, 1998. She would like to work for the Camber Corporation. Camber Corporation has contracted with the State Licensing Board to do programming work on a two-year project, which began in October 1998.

Ms. Baker's responsibilities with the State Licensing Board for General Contractors were to coordinate special projects, perform accounting/payroll functions, and serve as personnel manager. Ms. Baker's involvement with the contract was to coordinate with Finance Department staff of Information Systems Division (ISD) and Camber Corporation by communicating what they needed in the agency.

Ms. Baker's responsibilities were limited to communicating with Camber Corporation; what data files they had, how their systems were accessed, etc. She had no involvement in any of the contractual terms or the decision-making process.

In addition, as personnel manager, she did not have the authority to hire or fire. She interviewed, recruited and processed paperwork from the Personnel Department for the director to make a determination as to whom would be hired. She did not make recommendations.

The Camber Corporation has contracts throughout the state and Ms. Baker would not be affiliated with any of the state contracts. Ms. Baker will have the contract representative, Mr. Max Pool, speak to the Commission at its convenience to assure the Commission that she is in no way using her job with the state for any personal gain for her family or herself. Ms. Baker

states that she is merely trying to make a living, and adds that it is very hard being a single parent.

The Alabama Ethics Law, Code of Alabama, Section 36-25-13(a) states:

“(a) 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:

“(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 36-25-7(b) states that:

“(b) No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action.”

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.”

Based on the fact that Ms. Baker was not in a decision-making position or a position of authority and had no involvement as to the terms of the contract with Camber Corporation, she would not be prohibited from accepting employment with Camber Corporation. However, she could not represent Camber Corporation before the State Licensing Board for General Contractors for a period of two years after leaving state service.

CONCLUSION

A retired Departmental Operations Specialist of the State Licensing Board for General Contractors may accept employment with the Camber Corporation which has previously contracted with the State Licensing Board, as she had no decision-making authority over the contractual process, but merely demonstrated to Camber Corporation the system in use at the time.

A retired Departmental Operations Specialist of the State Licensing Board for General Contractors may not, for a period of two years after leaving the State Licensing Board for General Contractors, represent the Camber Corporation before the State Licensing Board for General Contractors.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on December 2, 1998.


Camille S. Butrus
Chair
Alabama Ethics Commission