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ETHICS COMMISSION



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Camille S. Butrus, Chairman
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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

May 5, 1999

ADVISORY OPINION NO. 99-18

J. Thomas Hunt
Investigator
District Attorney's Office
Montgomery County
408 Festival Place
Montgomery, Alabama 36117

Conflict Of Interests/Investigator With
Montgomery County District Attorney's
Office Forming Corporation To Provide
Continuing Education Seminars For Law
Enforcement Agencies.

An investigator with the Montgomery
County District Attorney's Office may form
a corporation and conduct continuing legal
education seminars for various law
enforcement agencies around the State of
Alabama; provided, that his conducting of
the continuing education seminars is not a
part of his job responsibilities with the
District Attorney's Office; and further, that
all work done involving the continuing
education seminars is done on his own time,
whether it is after hours, annual leave, etc.;
and, that no public equipment, facilities,
time, materials, human labor or other public
property under his discretion or control is
used to assist him in either obtaining the
opportunities or in performing the duties
regarding those opportunities.

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Dear Mr. Hunt:

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 an investigator with the Montgomery County District Attorney's Office form a corporation to provide continuing education seminars for various law enforcement agencies around the State of Alabama?

FACTS AND ANALYSIS

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

J. Thomas Hunt is an investigator with the Montgomery County District Attorney's Office. He is interested in forming a corporation to provide continuing education seminars for various law enforcement agencies around the State of Alabama. Police officers are required to receive twelve hours of continuing education each year.

Since the law requiring the continuing education hours went into effect, Mr. Hunt has received numerous requests to conduct seminars for various agencies throughout the State of Alabama. He is considering forming a corporation to conduct and sponsor law enforcement related seminars, but is desirous of an Advisory Opinion from the Commission prior to his doing so.

On April 8, 1988, the Commission issued Advisory Opinion No. 1201, which held in part that:

"In line with recent interpretations of the Ethics Law, the Alabama Ethics Commission rules that the detective may form a corporation for the purpose of conducting seminars for law enforcement personnel who pay a fee to attend. However, the detective is cautioned to avoid using his position with the city police department in any way to obtain financial gain for his business in violation of Section 36-25-5(a), Code of Alabama, 1975."

The Alabama Ethics Law, Section 36-25-5(a), Code of Alabama, 1975, states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(c) states:

"(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy."

Section 36-25-1(8) defines a conflict of interests 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 36-25-2(b) states:

" (b) It is also essential to the proper operation of government that those best qualified be encouraged to serve in government. Accordingly, legal safeguards against conflicts of interest shall be so designed as not to unnecessarily or unreasonably impede the service of those men and women who are elected or appointed to do so. An essential principle underlying the staffing of our governmental structure is that its public officials and public employees should not

be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided."

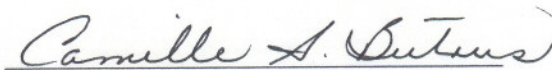
Based on the facts as provided and the above law, an investigator with the Montgomery County District Attorney's Office may form a corporation and conduct continuing legal education seminars for various law enforcement agencies around the State of Alabama; provided, that his conducting of the continuing education seminars is not a part of his job responsibilities with the District Attorney's Office; and further, that all work done involving the continuing education seminars is done on his own time, whether it is after hours, annual leave, etc.; and, that no public equipment, facilities, time, materials, human labor or other public property under his discretion or control is used to assist him in either obtaining the opportunities or in performing the duties regarding those opportunities.

CONCLUSION

An investigator with the Montgomery County District Attorney's Office may form a corporation and conduct continuing legal education seminars for various law enforcement agencies around the State of Alabama; provided, that his conducting of the continuing education seminars is not a part of his job responsibilities with the District Attorney's Office; and further, that all work done involving the continuing education seminars is done on his own time, whether it is after hours, annual leave, etc.; and, that no public equipment, facilities, time, materials, human labor or other public property under his discretion or control is used to assist him in either obtaining the opportunities or in performing the duties regarding those opportunities.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on May 5, 1999.



Camille S. Butrus

Chair

Alabama Ethics Commission