

SUBJECT: OFF-DUTY EMPLOYMENT OF SOUTH CAROLINA ETV EMPLOYEE

SUMMARY:

A regional ETV station manager would not be prohibited from off-duty employment with a family-owned computer graphics and animation business, provided such work is consistent with the off-duty employment guidelines.

QUESTION:

The station manager of a regional ETV station requests an advisory opinion concerning his off-duty employment with a family-owned computer graphics and animation business. So far, the manager has assisted his father-in-law in the selection of equipment and software for the project. His future involvement with the business would be to train other family members and create graphic materials. Prospective clients and services of the business would include architectural firms, landscape architects, interior designers, legal firms, corporate sales presentations, and non-broadcast sales. The business would in no way compete with any services provided by his station or South Carolina ETV. Moreover, no state equipment, materials or time would be utilized in the conduct of the business. The station manager has received clearance for the project from his supervisor, the Senior Vice President of South Carolina ETV.

DISCUSSION:

This opinion is rendered in response to a letter dated November 3, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-700(A) provides in part as follows:

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use which does not result in additional public expense.

In prior advisory opinions, the State Ethics Commission has advised that a public employee may engage in outside employment consistent with established guidelines: (1) that no public materials or

equipment are utilized, except as provided by Section 8-13-700(A), (2) such work is engaged in on the employee's own time, (3) the work does not interfere with the needs of the agency, and (4) the public position is not utilized to obtain or continue the employment.

In addition, the station manager is reminded that, if required to take action as a public employee which will affect the economic interests of the family-owned business, he must follow the procedures of Section 8-13-700(B) which provides in part as follows:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

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(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission.

Based on the facts submitted, it appears that the station manager's off-duty employment activities are consistent with the above-quoted guidelines, and therefore, are not prohibited by the Ethics Reform Act.