



MEC
OPINION NO.

2000.01.100

STATE OF MISSOURI

MISSOURI ETHICS COMMISSION
P. O. BOX 1254
JEFFERSON CITY, MISSOURI 65102

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January 31, 2000

COPY

At the January 25, 2000 meeting of the Missouri Ethics Commission, your November 1, 1999 request for an advisory opinion was discussed. The following is the Commission's response to your question:

Can I, as a former employee of a state agency, enter into private business agreements with persons who file reports with that agency to serve as their agent in electronically filing those reports?

It is the opinion of the Commission that you should not provide your services for financial gain as an agent to persons who file reports with your former state agency to facilitate the filing of their reports because of the provisions of Sections 105.452 and 610.032.4 of the Revised Statutes of Missouri. Subsections (2) and (3) of Section 105.452, RSMo prohibit state employees from using or disclosing confidential information obtained in the course of or by reason of such employment in any manner with the intent of obtaining personal financial gain. The definition of "confidential information" in Section 105.450(5), RSMo would include, among other things, computer software dealing with those reports that you helped develop and implement for your former agency, under the provisions of the Sunshine Law (Section 610.021(10), RSMo). Furthermore, the disclosure or misuse of closed information by a former employee would be contrary to Section 610.032.4, RSMo, which says that any person receiving or releasing closed information shall be subject to any laws, regulations or standards of that agency for the violation of the confidentiality or misuse of such information.

In addition, while an exception contained in subsection (5) of Section 105.454, RSMo allows former state employees to perform services for compensation during one year after termination even though those services may attempt to influence a decision of the agency for which the employee worked if those services are "in the preparation or filing of any public document," and while the reports in question are "public documents," acting as an "agent" for the persons who must file the reports in order to facilitate their electronic filings in question could

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entail more than the "preparation" or "filing" of a public document. Therefore, without further information on exactly what services might be performed as "agent" in this regard, and given the fact that some of the activities that an agent might undertake for a principal could go beyond the scope of this limited exception, it would be inappropriate to approve your general proposal to act as "agent" on behalf of such persons for their electronic filings under the provisions of Section 105.454(5), RSMo, as well.

Sincerely,


Charles G. Lamb, Ph.D.
Executive Director

NOTICE

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.