



MISSOURI ETHICS COMMISSION

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(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

May 10, 2018

Senator Robert Schaaf
201 West Capitol
Room 423
Jefferson City MO 65101

Re: File No. 18-0008-I

Dear Senator Schaaf:

The Missouri Ethics Commission considered the complaint filed against you at its May 10, 2018 meeting. The complaint alleged you violated the conflict of interest law as well as a provision of the Missouri Constitution prohibiting outside state employment by a state legislator when you accepted a position with Corizon Health to provide medical services to offenders within the Missouri Department of Corrections (DOC). The complaint also alleged a registered lobbyist for Corizon Health assisted you in obtaining this position in exchange for you sponsoring legislation.

Staff investigation determined the following background information:

The Department of Corrections has a contract with Corizon Health for Corizon to provide medical services to the offender population housed in DOC. After completing a credentialing process you, a licensed medical doctor, were hired to work for Corizon in 2017. Staff found no evidence that any lobbyist registered on behalf of Corizon Health played any role in you obtaining the position. Nor did staff find that any aspect of your hiring by Corizon violated any conflict of interest laws.

Allegation regarding Article III, Section 12 – Other Employment with the State

Article III, Section 12 of the Missouri Constitution provides:

No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This section shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

The Missouri Ethics Commission has issued several opinions related to the application of conflict of interest statutes to questions posed by a public official who also works for a private



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entity doing business with that official's public body. One opinion, 2008.09.CI.007, provides that a State Representative can be a co-owner of a company which contracts with the state, so long as any substantial interest in the company is reported and the duties performed for the company are not associated with the Representative's official duties. While the opinion focuses on specific acts which the Representative would not be able to perform on behalf of the company (i.e. attempting to influence the decision of a state agency for compensation under Section 105.456.1(3), RSMo), the implication of this opinion is that a legislator may be employed by an entity which has a contract with the state and that such employment does not violate Article III, Section 12.

Allegation regarding Conflict of Interest Laws – Section 105.456

Section 105.456, RSMo, sets out certain acts which are prohibited by members of the General Assembly or by any statewide elected official. Section 105.456.1(1), RSMo, provides:

1. No member of the general assembly or the governor, lieutenant governor, attorney general, secretary of state, state treasurer or state auditor shall:

(1) Perform any service for the state or any political subdivision of the state or any agency of the state or any political subdivision thereof or act in his or her official capacity or perform duties associated with his or her position for any person for any consideration other than the compensation provided for the performance of his or her official duties;

For the reasons set out above in the analysis of Article III, Section 12, the Commission does not interpret Section 105.456.1(1), RSMo, to prohibit a legislator from being employed by a company which contracts with the State of Missouri, in this case to provide medical services to offenders housed in DOC.

As part of its investigation, Commission staff also reviewed Section 105.456.1(3), RSMo, which prohibits a legislator or statewide official from attempting, for compensation other than the compensation provided for that officeholder's official duties, to influence the decision of any agency of the state on any matter. Commission staff determined your position with Corizon includes no decision-making authority as it relates to policy matters, nor was there evidence you have attempted to influence public policy in your position with Corizon.

While this complaint was pending, staff also reviewed your personal financial disclosure. The disclosure, received in April 2018, shows your employment with Corizon.

Under Section 105.461, RSMo, a member of the general assembly is required to either: 1) file a written report with the Chief Clerk of the House or Secretary of the Senate regarding that member's specific interest in any bill or measure pending in the general assembly, if that interest is either a substantial personal or private interest (Sec. 105.461.1); or 2) is deemed to have complied with the notice provision if the member files, at any time before the member passes on



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such bill or measure, a financial interest statement which discloses the official's substantial personal or private interest the member has on that bill or measure (Sec. 105.461.2).

The term "substantial interest" is defined in Section 105.450(11), RSMo:

(11) "Substantial interest", ownership by the individual, the individual's spouse, or the individual's dependent children, whether singularly or collectively, directly or indirectly, of ten percent or more of any business entity, or of an interest having a value of ten thousand dollars or more, or the receipt by an individual, the individual's spouse or the individual's dependent children, whether singularly or collectively, of a salary, gratuity, or other compensation or remuneration of five thousand dollars, or more, per year from any individual, partnership, organization, or association within any calendar year;

While it is not clear whether you had a substantial interest in any measure or bill pending in the general assembly which related to Corizon or your employment with Corizon, to the extent that you did have any substantial interest, your filing of the financial interest statement satisfied any requirement for you to declare any substantial interest you may have for any bill or measure that may come before the general assembly in the future.

From the facts presented, the Commission finds no reasonable grounds exist to support a violation of either the Missouri Constitution or Chapter 105, RSMo, and is dismissing the complaint.

Sincerely,

A handwritten signature in black ink that reads "James Klahr".

James Klahr
Executive Director