



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 84-16

### Liquor Control Agent as Private Investigator

A licensed private investigator has accepted employment as a liquor control agent in the Department of Liquor Control. In his off-duty hours he continues to carry on a private investigating business, mainly as a manager. Most of the investigating he subcontracts out to other licensed private investigators, or assigns to assistants who work for him. He engages in no investigations involving any person or firm connected with the liquor industry. The liquor control agent has asked whether there are conflicts between his public and private positions.

The Department of Liquor Control enforces the provisions of the Liquor Control Act, Chapter 545, General Statutes. Subsection 30-6(a), General Statutes. It is the duty of its Inspection Division, in which the liquor control agent serves, to investigate the suitability of new liquor permit applications, the continued suitability of applicants for permit renewals, and compliance by permittees and their backers with the Liquor Control Act and the regulations implementing it. Section 30-6-F2, Regulations of Connecticut State Agencies. The investigations usually are conducted by the Division's liquor control agents. Because of the nature of the work, one way to meet the experience for the liquor control agent class is to have been employed five years in investigatory work. Nothing in the Liquor Control Act or the regulations implementing it specifically forbids a liquor control agent to act as a private investigator in his off-duty hours. The liquor control agent has permits (section 29-28, General Statutes) to carry a pistol or revolver in Connecticut. The Department of Liquor Control prohibits the carrying of weapons by agents while on duty. The liquor control agent agrees, while on duty as an agent, not to carry a weapon.

A person wishing to operate as a private investigator must first be licensed by the Commissioner of Public Safety (section 29-153, General Statutes), who can suspend or revoke the license for the reasons enumerated in section 29-158, General Statutes. Licenses are renewed annually. Section 29-155b, General Statutes. Nothing in the chapter of the General Statutes which regulates private detectives appears to prevent a liquor control agent from acquiring and retaining a license as a private investigator. See Chapter 534, General Statutes, as amended by Public Acts Nos. 83-573 and 84-546. (A State

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liquor control agent does not have the police powers which section 29-154c, General Statutes, states would make one ineligible for a license as a private investigator.)

When a public official or State employee takes outside employment, the question of whether there are conflicts of interests, under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, between the public and the private position usually depends upon what relationships there are between the two. As a State employee the liquor control agent may not engage in any outside activity if he has reason to expect that he will derive a direct monetary gain or loss by reason of his official activity, except under certain limited circumstances. Subsection 1-84(a), section 1-85, General Statutes. He may not use his State position, or confidential information acquired in it, for the financial benefit of himself or his investigating business. Subsection 1-84(c), General Statutes. The outside employment must not impair his independence of judgment as a State employee, or require or induce him to disclose confidential information received through holding his public position. Subsection 1-84(b), General Statutes. Additionally, there are criteria which must be met if his business enters into a contract with the State. Subsection 1-84(i), General Statutes.

It appears that these Code provisions should not prevent the liquor control agent from carrying on his private investigator business provided in his private capacity he does not become involved in investigating anyone involved in any way with the liquor industry, or conduct an investigation for such a person. This means not accepting private investigations of or for anyone in the liquor industry. Additionally, if he receives an assignment as a liquor control agent to take any official action regarding a person with whom he has dealings as a private investigator, he must reveal the potential conflict and disqualify himself from the matter. Section 1-86, General Statutes.

The Ethics Commission recently concluded that a liquor control supervising agent could serve as a deputy sheriff. Ethics Commission Advisory Opinion No. 84-15, 46 Conn. L.J. No. 22, p. 20C (November 27, 1984). The agent could not serve papers on, or provide sheriff services to, anyone associated with the liquor industry. Furthermore, the county in which he was a deputy sheriff could not be in the geographic area which was under his jurisdiction as a liquor control supervising agent.

The analysis in that Opinion seems equally applicable here. Provided the liquor control agent's private activity remains completely divorced from the liquor industry, he should not be able to utilize his State position and powers, or confidential information gained as a State employee, to affect his or his business' financial interests. As a State employee he does not appear to be able to influence either the licensing or the operation of his private business, or even the process by which he obtains a permit to carry a gun. His judgment as a liquor control agent should remain completely independent. Nothing in his private investigating activity should require or induce him to disclose confidential activity gained as a liquor control agent. Since he does not have, as a private investigator, the area-wide authority that a deputy sheriff does, there seems to be no reason why he should not conduct or control private investigations in the same geographic area in which he serves as a liquor control agent, so long as he steers clear of the liquor industry.

By order of the Commission.

A handwritten signature in cursive script, reading "R. W. MacGregor", with a horizontal line underneath.

Dated Dec 5 1984

