



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 197

March 25, 1994

Whether a former supervisor of hearings examiners for a state agency may represent parties in administrative hearings before the agency. (AOR-222)

The Texas Ethics Commission has been asked to consider whether a former supervisor of hearings examiners for a state agency may represent parties in administrative hearings before the agency. The request letter does not specifically describe the duties of the former state employee during his tenure as a state employee or the specific nature of any subsequent employment. Because the application of the revolving door provisions in chapter 572 of the Government Code depends on the specific nature of a person's state employment and subsequent employment, we can respond to the question presented only with a general review of the revolving door provisions.

Chapter 572 of the Government Code contains two different revolving door prohibitions.¹ One applies only to former board members and former executive directors of regulatory agencies and is not applicable here. Gov't Code § 572.054(a). The other applies to former board members and former employees who were paid at or above a specified level. *Id.* § 572.054(b).² That provision prohibits a former employee of a regulatory agency³ from representing anyone or receiving compensation from anyone for services regarding a matter in which the former employee participated as a state employee, either through personal involvement or because the matter was within the employee's official responsibility. *Id.*; see [Ethics Advisory Opinion No. 23](#) (1992) (prohibition lasts forever). A "particular matter" is "a *specific* investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding." *Id.* § 572.054(h)(2) (emphasis added). "Participated" means taking action as an officer or employee "through decision, approval, disapproval, recommendatio, giving advice, investigation, or similar action." *Id.* § 572.054(h)(1); see [Ethics Advisory Opinion No. 23](#) at 2 (former state employee may not advise current employer about an audit of a client in which he participated as a state employee; whether a new audit of the same client would be a new matter is a fact question).

SUMMARY

A former state agency employee subject to section 572.054(b) may represent a person before his former agency so long as he does not work on a matter in which he participated or for which he had responsibility as a state employee. Further, a former employee may work on matters that are similar to matters he worked on as a state employee, and he may work for a person or entity that he dealt with as a state employee, as long as he does not work on a matter he worked on as a state employee or a matter over which he had responsibility as a state employee.

¹ Section 572.054(e) provides that other law that restricts representation of a person before a state agency prevails over section 572.054.

² Section 572.054(b) applies to a state employee of a regulatory agency who is compensated, as of the last date of state employment, at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. Gov't Code § 572.054(c).

³ Chapter 572 defines "regulatory agency" broadly. Gov't Code § § 572.002(8), 572.054(g). See generally [Ethics Advisory Opinion No. 154](#) (1993) (Texas Commission on Arts is a regulatory agency for purposes of revolving door provision).