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Advisory Opinion from August 16, 2009

The Commission reviewed a request for reconsideration of Opinion 09-05 from June 15, 2009 and received additional facts

The Commission has reversed its earlier decision, and has determined that this relationship *does not* create an appearance of conflict of interest, in violation of §8-11 (A) 7. This provision prohibits a covered person from intentionally using the prestige of office or confidential information obtained in an official county position for "private gain". The Commission construes "private gain" to exist when there is an identifiable motivational advantage from the purported conflict of interest. Because the broker cannot alter or fix the price of this particular insurance coverage, and as long as there is no rebate as to commissions it receives for the policy, the Commission determined that there would be no identifiable or motivational advantage in these circumstances. If an informed person of the public could not reasonably believe that there is a private gain, then the relationship between the employee and broker cannot be held to be a conflict or to present an appearance of a conflict. The circumstances in this particular matter do not meet the standard that this Commission has determined would result in an actual or appearance of a conflict.

Advisory Opinion 09-09