

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-9(a) Conflicts of interest

SEC found there was no conflict of interest for the NRC Chairman to own stock in three energy companies because, although his agency exerted regulatory authority over coal mining activities, those energy companies did not conduct coal mining in Indiana.

**93-I-16 Conflict of Interest
(Decision November 18, 1993)**

FACT SITUATION

The Chairman of the Natural Resources Commission wanted to know if it would be a conflict of interest under Indiana state law for him to hold stock in three energy companies which had coal company interests, but no coal company interests in Indiana.

The Natural Resources Commission made policy decisions for the Department of Natural Resources. It was composed of twelve members, five appointed by the Governor and seven ex officio. The Chairman was appointed by the Governor.

The State Ethics Commission had jurisdiction over the Chairman of the Natural Resources Commission. He was a "special state appointee." However, the Commission had no rules for special state appointees in place at the time of the inquiry, although it was in the process of drafting rules for promulgation.

The Chairman said that if any of the companies in which he held stock were to buy interest in some mining company in Indiana, he would divest himself of the stock immediately. He would divest because some policy issues involving coal companies come before the Commission for a decision on occasion, although as a practical matter, most of the work regarding mining operations was delegated to staff within DNR. An issue that had come before the Natural Resources Commission concerned blasting done by coal companies in southern Indiana and citizens who object to the extent of the blasting. The stock held by the Chairman, his wife, and unemancipated children was less than one percent of the stock of the companies.

QUESTION

Is there a conflict of interest under Indiana state law for the Chairman of the Natural Resources Commission to hold stock in three energy companies which have coal company interests, but no coal company interests in Indiana?

OPINION

The Commission found that the Chairman's ownership of stock in the three energy companies did not violate the state ethics laws regarding conflict of interest because, although the Natural Resources Commission has regulatory authority over coal mining activities, these energy companies did not conduct coal mining in the state of Indiana.

The relevant statute is as follows:

IC 4-2-6-9(a) on conflict of interest provides, "A state officer or employee may not participate in any decision or vote of any kind in which the state officer or the employee or that individual's spouse or unemancipated children has a financial interest."

The definition of financial interest at IC 4-2-6-1(9) says, in relevant part, "The term does not include an interest of an . . . employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of

the common stock of the corporation."