

April 24, 1991

Commissioner
Alaska Department
P. O. Box
Juneau, AK 99811

Re: Commissioner's outside employ-
ment - Executive Branch Ethics
Act (AS 39.52)
Our file: 663-91-0429

Dear Commissioner:

Your letter of April 22, 1991 to Attorney General Cole requesting an advisory opinion under the Executive Branch Ethics Act (AS 39.52) has been referred to me. In that letter you have asked for a determination respecting the compatibility of a compensated advisory role for a foundation with your position as commissioner under the Ethics Act. I have reviewed your letter as well as a copy of the agreement you entered into with the foundation. I conclude that no ethical conflict exists.

AS 39.52.170(a) imposes certain restrictions on outside employment. It provides:

A public employee may not render services to benefit a personal or financial interest or engage in or accept employment outside the agency which the employee serves, if the outside employment or service is incompatible or in conflict with the proper discharge of official duties.

I note at the outset that the objectives of the foundation do not conflict with those of your department. Of equal significance, the foundation has no corporate presence and undertakes no activity in the State of Alaska. It is my understanding that none is planned. Hence, the sole remaining basis for possible objection is excessive demand on your time such that you could not fulfill your statutory functions.

You indicated that since relinquishing your position as

Commissioner
Alaska Department
Our file: 663-91-0429

April 24, 1991
Page 2

president and CEO of the foundation you have not been called upon to advise or assist the foundation at any time and that should you be asked to render such assistance the agreement requires that it shall be done at "mutually agreeable times." 1/ There is nothing in the agreement or in your summary that suggests that the time commitment expected of you by the foundation would limit your ability to properly discharge your official duties.

In view of the foregoing, it is our opinion that there is no prohibition in the law of Alaska that would prevent you from continuing to serve as a senior advisor to the foundation and receiving the agreed-upon remuneration for such service while serving as commissioner.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

By:
Bruce M. Botelho
Assistant Attorney General

BMB:tg

1/ From October 1989 until June 1990, you held a full-time position as president of a society while serving as a senior advisor to the foundation. No conflicts of schedule arose during that time.