



Opinion No 86-118
9348

Office of the Attorney General

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December 1, 1986

Mr. Michael Grant LeFever
Executive Director
Workers' Compensation Commission
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Dear Mr. LeFever:

Thank you for yours of October 29, 1986. You request clarification of the opinion of this Office (8/2/85) wherein we concluded that the authority to approve settlements under the workers' compensation law is vested with the Commission. You specifically question whether the opinion's conclusion inferentially precludes the Commission from delegation to a deputy commissioner the responsibility of conducting hearings and holding informal fact finding conferences. We advise that the opinion does not address whether a deputy commissioner could conduct a fact finding hearing preliminary to approval of a settlement under the workers' compensation law and thus we agree with you that the opinion does not preclude such delegation. The opinion should be read as applying only to the final act of "approval".

This Office has stated in a similar context that:

We emphasize that we do not here imply that the authority inherent in the Commission to delegate certain preliminary proceedings to an administrative employee is uniquely constrained in this area. For example, the Commission in approving attorney's fees may clearly delegate to subordinates the task of taking testimony and receiving observations and making recommendations thereon; nonetheless, the actual decision to approve must be made by the Commission or its members, since these officials constitute the single authority duly designated by the Legislator to exercise this authority. See, Pettiford v. South Carolina State Board of

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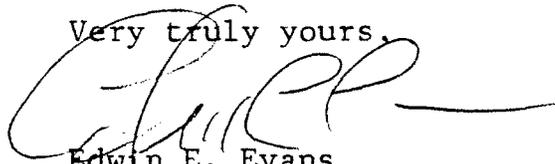
Education, 218 S.C. 322, 62 S.E.2d 780 (1950) cert.
den. 341 U.S. 920.

Op. Atty. Gen. (5/23/86). I additionally refer you to § 42-17-40 wherein it is provided that "the parties may be heard by a deputy, in which event he shall swear or cause the witnesses to be sworn and shall transmit all testimony to the Commission for its determination and award."

Moreover, the South Carolina Administrative Procedures Act at § 1-23-340 recognizes and provides the procedure for the taking of testimony in administrative hearings by someone other than the officials authorized by the Legislature to make the ultimate decision. Thus, I agree that the delegation to a deputy commissioner of the responsibility to hear evidence and take testimony in the conduct of a hearing for approval of a settlement is consistent with the law provided that final approval authority of the settlement remains with the Commissioners.

I hope this response clarifies any confusion that may have existed.

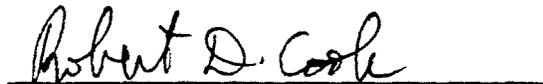
Very truly yours,



Edwin E. Evans
Deputy Attorney General

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