

1973 WL 26978 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 19, 1973

*1 Honorable Claude McCain
Chairman
South Carolina Insurance Commission
Denmark, South Carolina

Dear Claude:

I have surveyed the information regarding the eligibility of an individual to be appointed as Chief Insurance Commissioner under the following circumstances. The individual was formerly an officer of an insurance company and, following his cessation of employment with that company, is currently receiving compensation payable to him as deferred compensation pursuant to the terms of his prior contract. This will extend for a period of five years. He is also retained as a consultant for his former company and is being compensated therefor. Certain mortality and retirement provisions are incorporated in the consulting agreement.

Should the individual be appointed as Chief Insurance Commissioner, he will place funds accruing to him by reason of his services to his former employer-insurance company in escrow, presumably to be payable to him or his designee at the expiration of his service as Chief Insurance Commissioner.

It is my opinion that this individual is not eligible to be appointed Insurance Commissioner pursuant to the provisions of the requirements of Section 37-58, Code of Laws, 1962, which provide that the Chief Insurance Commissioner, before taking office, 'shall sever all connections, either direct or indirect, with any insurance company or agency and maintain such status during his tenure of office.'

Without expressing an opinion upon the impediment, if any, presented by his receipt of deferred compensation for prior service with the company, it appears clear to me that his connection with the insurance company as a consultant is a bar to appointment as Chief Insurance Commissioner. The placing of funds for his services in an escrow account does not, in my view, remove the prohibited relationship of 'direct or indirect' connection with an insurance company. A similar procedure with respect to the ownership of stock in an insurance company was heretofore presented to this Office and the answer previously given was in accordance with the position expressed herein.

With best regards,
Very truly yours,

Daniel R. McLeod
Attorney General

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