

1979 WL 42714 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
April 17, 1979

***1 RE: Your inquiry of April 4, 1979**

Honorable Kay Patterson
State of South Carolina
House of Representatives
District No. 73
Richland County
6815 Gavilan Avenue
Columbia, South Carolina 29203

Dear Representative Patterson:

Gary Baker of the State Ethics Commission has advised me that you wish, in addition to his opinion on the subject, an opinion from this Office as to whether the factual situation related in your above-referenced letter would constitute a violation of the criminal laws of this State.

The facts alleged in your letter concern:

- 1.) the Director of a State agency, with income in excess of \$20,000.00 per year;
- 2.) who acts as a manufacturer's representative for a company which competitively bids for his own agency; and
- 3.) who draws up the specifications for the competitive bids.

You also inquire as to the possible criminality of such an individual using a State car for travel on company business and of conducting company business on the individual's personal time.

Based on the facts alleged, there may be criminal liability for the crimes of official misconduct (Common Law); obtaining Goods and Money by False Pretenses; Breach of Trust with Fraudulent Intent and possibly other crimes.

The facts are not, however, sufficiently developed to ascertain whether criminal liability for one or more of the foregoing crimes, or, for that matter, for any crimes, exists. It would seem appropriate to fully develop the facts through an investigation rather than to speculate on criminal liability. I will be glad to discuss the matter with you, or you may wish to request an investigation by SLED or some other investigative agency.

Sincerely yours,

Joseph R. Barker
Assistant Attorney General

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