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SEC AO2013-001 May 15, 2013

SUBJECT: Acceptance of Gifts

SUMMARY: Coastal Carolina University's Professional Golf Management instructors may accept a limited amount of complimentary PGA merchandise to assist them in the University's golf management program as long as the acceptance of the merchandise does not influence the instructors in the discharge of their official duties in violation of Section 8-13-705(B).

QUESTION: Coastal Carolina University questions whether its Professional Golf Management instructors may accept a limited amount of complimentary PGA merchandise to assist them in performing their PGA Golf Management Player Development?

DISCUSSION: This opinion is rendered in response to a letter dated April 23, 2013 requesting an opinion from the State Ethics Commission. The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

In AO94-014 the State Ethics Commission opined that private businesses may provide both financial and material support to assist public agencies in carrying out their mandated responsibilities. The Commission held that "the provision of textbooks and teach-

ing materials to school teachers bestows a benefit to the school or to the school district and does not appear intended to influence official actions." The Commission found that a textbook publishing company could supply books and other teaching materials for trial use in a classroom setting, provided the donation was not intended to influence a public official's, public member's or public employee's official responsibilities.

Coastal Carolina University ("the University") provides a course of study for professional golf management. Those instructors may also be members of the PGA. As members of the PGA they traditionally may receive complimentary merchandise from golf equipment manufacturers. Complimentary equipment, if allowed, would be used by the instructors to perform their university duties.

The Commission notes Section 8-13-705(A) and (B) which states:

> (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
> (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
> (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
> (3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.
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> (B) A public official, public member, or public employee may not, directly or
> indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:
> (1) influenced in the discharge of his official responsibilities;
> (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
> (3) induced to perform or fail to perform an act in violation of his official responsibilities.

Section 8-13-705 prohibits anything of value from being offered, promised, given, accepted, or solicited, whether directly or indirectly, if the intention is to influence one's official duties. The State Ethics Commission has previously advised that private businesses may provide both financial and material support to assist public agencies in car-

rying out their mandated responsibilities as long they are not attempting to influence the public agencies' duties. The Commission finds that complimentary golf equipment provided by golf equipment manufacturers to instructors in the University's Professional Golf Management program to be used in the performance of their university duties bestows a benefit to the University and does not appear intended to influence official actions.

CONCLUSION: Coastal Carolina University's Professional Golf Management instructors may accept a limited amount of complimentary PGA merchandise to assist them in the University's golf management program as long as the acceptance of the merchandise does not influence the instructors in the discharge of their official duties in violation of Section 8-13-705(B).

KEY WORDS:	gifts, influence, official duties

ANNOTATIONS:	8-13-705