

SUBJECT: ASSOCIATION AWARDS SPONSORED BY PRIVATE INDUSTRY

SUMMARY: Private industry is not prohibited from sponsoring certain awards for law enforcement officers. The Commission advised against industry sponsorship of hospitality rooms or meals but instead advised the association to follow a procedure for seeking overall industry support of the entire conference. There is no prohibition against the Association co-sponsoring an award for the Law Enforcement Officer of the Year. The Commission also suggested that the Secretary of State's Office be contacted concerning relationships with lobbyists and lobbyist principals.

QUESTION: The Executive Director of the South Carolina Law Enforcement Officers' Association requests an opinion concerning the Associations annual conference and training session. His questions are contained in the discussion section:

DISCUSSION:

This opinion is rendered in response to a letter dated April 2, 1992 requesting an opinion from the State Ethics Commission. The 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 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

1. A company in South Carolina annually gives our newly installed president a gift in honor of and in commemoration on his ascension into this office. Are there any prohibitions against this custom being continued? (Keep in mind, these presidents can come from all levels of law enforcement in South Carolina.)
2. A law enforcement supplier/vendor annually presents our newly installed president a weapon in honor of and in commemoration of his ascension into this office. Are there now any prohibitions against this practice?

Awards to public employees are not outright prohibited by the Ethics Reform Act, however, Section 8-13-705 provides in part as follows:

- (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

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- 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.
- (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.

The Commission also calls attention to the provisions of Section 8-13-720 which provides:

No person may offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

It does not appear that the awards are given to influence the recipients in their official activities. The donor(s) has no control over who will be the eventual recipients. Based upon the finding that there is no potential for influencing the employee in providing the awards, there does not appear to be a conflict with the awards being given to the newly installed president.

The State Ethics Commission advises, however, that the Ethics Reform Act contains further restrictions concerning relationships by State employees with lobbyists and lobbyist principals. The State Ethics Commission, therefore, advises that the Secretary of State's Office be contacted concerning the applicability of the lobbying statute with this awards program.

3. We typically have corporate sponsorships of hospitality rooms where food and drinks are available to all attendees during our conference. Are there any restrictions which apply to this?

In Advisory Opinion SEC AO92-061, the State Ethics Commission noted that various state agencies, as well as organizations comprised of agencies and employees, have in the past routinely solicited and/or accepted donations from private firms. These donations have been utilized to defray some of the expenses of conferences and conventions, which otherwise would have to be borne by the agencies or the employees themselves.

The Commission notes that Section 8-13-705 prohibits the giving of anything of value to a public official, public member or public employee with the intent to influence official action. This same section prohibits the solicitation or receipt of anything of value by a public official, public member or public employee in return for being influenced. The Commission does not believe that solicitations such as described above are ipso facto violations of Section 8-13-705. The Commission does feel the need for the establishment of guidelines for solicitation and donation so as to minimize the possibility of undue influence.

In light of the fact that those firms who are asked to help defray the costs of an event may be doing business or be seeking to do business with the agency or organization involved, the Commission suggests the following guidelines for any such solicitation:

- (1) Solicitation be done either by a separate foundation and/or by employees who are not directly involved in agency activities regarding such businesses which are being solicited.
- (2) All interested potential sponsors be given the opportunity to contribute.
- (3) The contribution be made to a separate fund or account, with no industry source supporting any particular activity or event
- (4) Such industry source may be identified as a conference supporter or sponsor on conference programs, billboards, etc. with no amounts being shown to participants.

The State Ethics Commission would advise that associations composed of public employees solicit conference support in accordance with the above guidelines. In adherence to this procedure by the association, there would be no conflict since there is no direct sponsorship of any meal or hospitality function.

4. The Association co-sponsors an award for the South Carolina Law Enforcement Officer of the year. The recipient received several awards from various companies and sponsor ranging from plaques, weapons, invitations to conferences a check from the co-sponsoring association, and various other merchandise. Are there prohibitions against any portion of this awards package?

The State Ethics Commission addressed a similar question in Advisory Opinion SEC AO92-116. In that opinion, the Commission advised that the recipient is not prohibited from accepting awards from the SC Petroleum Council and other donors since there did not appear to be any influence being generated and because there is a selection committee to determine the recipient.

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