

SUBJECT: CIVIC CENTER COMPLIMENTARY TICKETS

SUMMARY: The State Ethics Commission would advise that complimentary tickets to events at a Civic Center are prohibited if given to influence a public official or public employee in the conduct of their official responsibilities.

QUESTION:

The Executive Director of the Greenwood Civic Center questions the use of complimentary tickets by that agency. Such complimentary tickets are provided to: (1) other promoters to get them to visit the Center and urge them to book shows there; (2) be used as a substitute for trouble seats at shows; (3) some underprivileged children; (4) some elected officials; (5) some appointed officials; and (6) some family members of County employees.

DISCUSSION:

This opinion is rendered in response to a letter dated February 14, 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.

Section 8-13-710(B) provides:

(B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

- (1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's, or public employee's office or position;
- (2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:
  - (a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.
  - (b) conducts operations or activities which are regulated by the public official's,

public member's or public employee's governmental entity.

Section 8-13-705(b) provides:

(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 8-13-100(1) defines anything of value as:

(1)(a) "Anything of value" or "thing of value" means:

- (i) a pecuniary item, including money, a bank bill, or a bank note;
- (ii) a promissory note, bill of exchange, an order, a draft, warrant, check, or bond given for the payment of money;
- (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
- (iv) a stock, bond, note, or other investment interest in an entity;
- (v) a receipt given for the payment of money or other property;
- (vi) a chose-in-action;
- (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
- (viii) a loan or forgiveness of indebtedness;
- (ix) a work of art, an antique, or a collectible;
- (x) an automobile or other means of personal transportation;
- (xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;
- (xii) an honorarium or compensation for services;
- (xiii) a promise or offer of employment;
- (xiv) any other item that is of pecuniary or compensatory worth to a person.

(b) "Anything of value" or "thing of value" does not mean:

- (i) printed informational or promotional material, not to exceed ten dollars in monetary value;
- (ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
- (iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;
- (iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;
- (v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;

- (vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or
- (vii) a campaign contribution properly received and reported under the provisions of this chapter.

Whether the offer or acceptance of complimentary tickets is prohibited by Section 8-13-705 should be determined on a case by case advisory basis, depending upon the donee, the donor, the type and amount involved, and whether there are any matters pertaining to the donor before the agency with which the officeholder or employee is associated.

The offer of complimentary tickets to the first three groups, i.e., other promoters, trouble seat substitution, and underprivileged children, is not a question to which the State Ethics Commission can respond. However, the offer or acceptance of complimentary tickets to or by elected or appointed officials or public employees and their family members may be restricted if given to influence their official actions. Absent such intent to influence, the provision of complimentary tickets would not be prohibited and, instead, would have to be reported on the Statement of Economic Interests.