Withdrawn Effective January 15, 2026 to the extent the opinion prohibits public employees from accepting direct expense reimbursement for speaking engagements under Section 8-13-715

COMMISSIONERS
WILLIAM A. COATES,4TH DISTRICT
CHAIRMAN
EMILY C. PHILLIPS, 2ND DISTRICT
VICE-CHAIRMAN

COMMISSIONERS
EDWARD E. DURYEA, 1ST DISTRICT
REV. DAVID L. TERRY, 3RD DISTRICT
RICHARD C. JONES, 5TH DISTRICT
C. A. HOUSEMAN, 6TH DISTRICT

State of South Carolina
State Ethics Commission

GARY R. BAKER
EXECUTIVE DIRECTOR

(803) 253-4192
FAX (803) 253-7539
5000 Thurmond Mall, Suite 111
P.O. Box 11926
Columbia, S.C. 29211

SEC AO92-054 January 27, 1992

SUBJECT: RELATIONSHIPS OF LOBBYIST PRINCIPAL WITH PUBLIC EMPLOYEES AND OFFICIALS

SUMMARY:

Public employees or officials are prohibited from accepting anything of value for giving a speech or workshop, however, they may seek reimbursement from their agency. They may accept a meal incidental to giving a speech if such meal is provided to all participants in the same event. Public employees or officials who are members of an association which is a lobbyist principal are entitled to the same benefits as provided to all other members. CPAs are generally not restricted from representing clients before the Tax Commission. Accounting professors at state universities are public employees for the purposes of the Ethics Reform Act.

QUESTION:

The Executive Director of the SC Association of Certified Public Accountants is a registered lobbyist and the Association is a lobbyist's principal. She asks a number of questions.

(1) If a legislator is a member of our association and holds an elected position for which we reimburse expenses, is this permissible, and is it reportable? For instance, our President-elect is a Senator, and we normally reimburse expenses for our president-elect to go to a national planning conference of all states. When he assumes the presidency, we normally reimburse all his expenses in connection with this office.

(2) CPAs are required to have 40 hours of continuing professional education every year. Those who perform government audits must also include government accounting and auditing courses which are often taught by government employees. We pay our instructor $500 per day plus expenses.

(a) May we pay legislators an honorarium plus expenses to teach our courses?

(b) May we pay employees of the State Auditor's Office or the S.C. Tax Commission, for example?

(c) May we pay CPAs on the Board of Accountancy or other state boards?

(3) When our committees and Board of Directors meet, a lunch or "break" is served. How do we deal with members who also are legislators or serve on state boards or are state employees? Their dues have paid for this food.

(4) May I drive my president to chapter meetings if he is a legislator, serves on a state board, or is a state employee? May I drive them any where?

(5) Does this law apply to city and county council members?

(6) Annually, SCACPA has a complimentary breakfast for our past presidents. Several serve on the Board of Accountancy and other boards. One is executive director of the Board of Accountancy. May we continue this breakfast?

(7) Since CPAs are heavily involved in taxes, we often ask legislators and state employees in the tax area to speak at our meetings. May we pay for their meal involved? Reimburse their expenses?

(8) Does this law affect CPAs representing clients before the S.C. Tax Commission?

(9) If a CPA firm designates a partner to keep up with, for instance, the Tax Study Commission's activities, must that CPA register as a lobbyist and the CPA firm as a lobbyist's principal?

(10) I understand SCACPA volunteer members are exempt who contact legislators and/or present testimony at legislative hearings and state agency hearings on behalf of the profession. Is this correct?

(11) Would accounting professors at state universities be considered public officials?

(12) Seven local chapters in the state are affiliated with our state association and are under the control of the SCACPA Board of Directors, but they set up their own meetings and speakers. Are they also considered my lobbyist's principal, grouped with the state organization?

DISCUSSION:

This opinion is rendered in response to a letter dated December 18, 1991 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.

As to the questions or partial questions concerning legislators, those questions must be addressed by the legislative ethics committees rather than the State Ethics Commission.

With regard to the second question, Section 8-13-715 provides:

> A public official, public member, or public employee acting in an official capacity may not receive anything of value for speaking before a public or private group. Notwithstanding the limitations of Section 2-17-90, a public official or public member may receive payment or reimbursement for actual expenses incurred for a speaking engagement. The expenses must be reasonable and must be incurred in a reasonable time and manner in which to accomplish the purpose of the engagement. If the expenses are incurred out of state, the public official or public member incurring the expenses must receive prior written approval for the payment or reimbursement.

In Advisory Opinion SEC AO92-023, the Commission advised that the public agency of a public employee giving a speech "in an

official capacity" could be reimbursed by a group for the costs with the employee be reimbursed by the employing agency for actual costs in accordance with agency travel reimbursement policies and procedures.

As to parts (b) and (c) of question 2, there would not be any restrictions against payment of honoraria and/or expenses to public employees or to CPAs who serve on the Board of Accountancy or other state boards if not acting "in an official capacity".

In response to the third and sixth questions, in Advisory Opinion AO92-025, the Commission advised that members of an Association who are public officials, members, or employees may meet with and partake of the same benefits as provided to all other members of such Association. Those persons are entitled to those benefits for which they have paid dues, in spite of their status as a public employee, member or official.

As to the third, fourth, ninth, tenth, and twelfth questions, the Secretary of State's Office has responsibility for addressing relationships with lobbyists by certain public office holders. Other than as restricted by Section 2-17-80, State board members or employees would not be prohibited from accepting a ride from a lobbyist. The Secretary of State's Office should be contacted concerning the applicability of the lobbyist principal provisions.

As to the fifth question, city and county council members are encompassed by the Ethics Reform Act as public officials as defined in Section 8-13-100(27).

As to the seventh question, the State Ethics Commission advised in Advisory Opinion SEC AO92-023 that a public employee giving a speech in an official capacity may accept a meal in conjuunction with that speech if the meal is provided to all other persons participating in the same event.

With regard to the eighth question, Section 8-13-740(A)(1), (3), and (6) provided:

> (A)(1) A public official occupying statewide office, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated may not knowingly represent another person before a governmental entity, except as otherwise required by law.
>
> (3) A public member occupying statewide office, an individual with whom he is associated may not knowingly represent another person before the same unit or

division of the governmental entity for which the public member has official responsibility, except as otherwise required by law.

(6) A public employee, other than those specified in items (4) and (5) of this subsection, receiving compensation other than reimbursement or per diem payments for his official duties, an individual with whom he is associated, or a business with which he is associated may not knowingly represent a person before an entity on the same level of government except:

(a) as required by law;

(b) before a court under the unified judicial system; or

(c) in a contested case, as defined in Section 1-23-310, excluding a contested case for a rate or price fixing matter before the South Carolina Insurance Commission, or in an agency's consideration of the drafting and promulgation of regulations under Chapter 23 of Title 1 in a public hearing.

Thus, Constitutional officers or businesses with which they are associated are prohibited from representing another person before any governmental entity, except when required by law. Public members and their business associations are prohibited from representing clients before the same governmental entity with which they are associated. Also, public employees are restricted in their representation of clients except (1) when required by (2) law, in matters before a court under the unified judicial system, or (3) in contested cases in accordance with the Administrative Procedures Act or in matters involving an agency's consideration of regulations in accordance with the Administrative Procedures Act. The Commission also calls attention to Section 8-13-740(7) which provides:

(7) The restrictions set forth in items (1) through (6) of this subsection do not apply to:

(a) purely ministerial matters which do not require discretion on the part of the governmental entity before which the public official, public member, or public employee is appearing;

(b) representation by a public official, public member, or public employee in the course of the public official's, public member's, or public employee's official duties;

(c) representation by the public official, public member, or public employee in matters relating to the

> public official's, public member's, or public employee's personal affairs or the personal affairs of the public official's, public member's, or public employee's immediate family.
> (B) A member of the General Assembly, when he, an individual with whom he is associated, or a business with which he is associated represents a client for compensation as permitted by subsection (A)(2)(c), must file within his annual statement of economic interests a listing of fees earned, services rendered, names of persons represented, and the nature of contacts made with the governmental entities.
> (C) A member of the General Assembly may not vote on the section of that year's general appropriation bill relating to a particular agency or commission if the member, an individual with whom he is associated, or a business with which he is associated has represented any client before that agency or commission as permitted by subsection (A)(2)(c) within one year prior to such vote. This subsection does not prohibit a member from voting on other sections of the general appropriation bill or from voting on the general appropriation bill as a whole.

The Commission knows of no other restrictions which would affect CPAs representing clients before the Tax Commission.

As to the eleventh question, for the purposes of the Ethics Reform Act, professors at state universities are considered public employees as defined in Section 8-13-100(25) as:

> "Public employee" means a person employed by the State, a county, a municipality, or a political subdivision thereof.