Withdrawn Effective January 15, 2026 to the extent the opinion prohibits public employees from accepting direct expense reimbursement for speaking engagements under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

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SEC AO92-063 February 26, 1992

SUBJECT: MUNICIPAL ASSOCIATION RELATIONSHIP WITH LOCAL OFFICIALS

SUMMARY:

Local elected officials are required to disclose transportation, lodging, food or entertainment received from the Municipal Association, a lobbyist principal. A public employee may accept a meal incidental to giving a speech when the meal is provided to all participants and a municipality may be reimbursed by the sponsoring organization for other costs associated with a public employee speaking before a group. The Municipal Association may solicit sponsors to sponsor its Annual Meeting and member representatives may take advantage of benefits available to all meeting attendees. A municipal employee may receive reimbursement of expenses and/or an honorarium from a sponsoring group for consultations conducted on annual leave if outside the course of his employment.

QUESTION:

The Director of Intergovernmental Relations of the Municipal Association of South Carolina has asked five questions:

1. Local elected and appointed officials are not included in the definition of "Public Official" in Section 2-17-10. The Association does not lobby local officials about local issues. Are the local elected and appointed officials who receive transportation, lodging, food or entertainment from the Municipal Association required to list all expenditures on local

elected and appointed officials on the report for lobbyist principal?

2. Section 8-13-715 allows public officials and public members to be reimbursed for actual expenses incurred for speaking before a public or private group. A public employee may not be reimbursed. May a municipality be reimbursed for the actual expenses incurred by an employee of the municipality speaking before a public or private group?

3. The Municipal Association sponsors an Annual Meeting each year. The meeting is attended by local elected and appointed officials, state legislators and state employees. To help control the cost of attending this meeting we solicit sponsors for functions such as a banquet, a dance, refreshments in the exhibit area and a golf tournament. The sponsor pays the association and receives publicity for sponsoring the event. May the Association continue to solicit sponsors? May sponsors who are lobbyist principals sponsor functions?

4. The Municipal Association has a reception for all legislators as part of our Winter Meeting. What accounting procedure do we follow to report the value of the reception for individual legislators? Do we divide the total cost by the total invited or should we keep a list of those that actually attend and divide that number into the total cost?

5 May a municipal employee receive reimbursement for expenses incurred and/or an honorarium for consultations conducted while on annual leave?

DISCUSSION:

This opinion is rendered in response to a letter dated January 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.

As to the first question, Section 8-13-710(A) provides:

(A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public

official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(a)(9).

Section 8-13-1120(A)(9) provides:

> (A) A statement of economic interests filed pursuant to Section 8-13-1110 must be on forms prescribed by the State Ethics Commission and must contain full and complete information concerning:
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> * * *
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> (9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:
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> (a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position: or
> (b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:
> (i) has or is seeking to obtain contractual or other business or financial relationship with the official's or employee's agency; or
> (ii) conducts operations or activities which are regulated by the official's or employee's agency if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year.

The Ethics Reform Act provides restrictions in Section 2-17-90 concerning the acceptance of lodging, transportation, entertainment, food, meals, beverages or invitations to a function paid by a lobbyist principal by, among others, public officials as defined in Section 2-17-10(18). The provisions of Section 8-13-710 concern reporting of anything of value received by public officials from a lobbyist's principal. Public official, for the purposes of Section 8-13-710(A) is defined in Section 8-13-100(27) as:

> "Public official" means an elected or appointed official of the State, a county, a municipality, or a political subdivision thereof, including candidates for the office. "Public official" does not mean a member

> of the judiciary except that for the purposes of campaign practices, campaign disclosure, and disclosure of economic interests, a probate judge is considered a public official and must meet the requirements of this chapter.

Thus, a local official who receives anything of value as defined in Section 8-13-100(1) from a lobbyist principal is required to disclose such things of value on the Statement of Economic Interests.

As to the second part of question 1, the Secretary of State's Office should be contacted regarding that matter.

As to the second question, the State Ethics Commission issued Advisory Opinion SEC AO92-023 which provided that a public employee may accept a meal incidental to giving a speech when the meal is provided to all participants and that the public agency may be reimbursed by the sponsoring group for other costs associated with a speaking engagement.

As to the third question, the State Ethics Commission addressed the issue of sponsorship of conference events in Advisory Opinions SEC AO92-052, and SEC AO92-061. The Commission sees no problem in the Municipal Association soliciting sponsors and the Association member representatives receiving benefits accorded all persons who attend the Annual Meeting. There is no prohibition against lobbyist principals sponsoring a function for local elected officials, however, those officials must disclose such attendance at functions sponsored by a lobbyist principal in accordance with the response to question 1 above.

The fourth question involves matters which fall within the jurisdiction of the Secretary of State's Office.

As to the fifth question, the State Ethics Commission issued Advisory Opinions SEC AO92-023, SEC AO92-043, and SEC AO92-051 concerning outside employment activities which are not part of the employee's official responsibilities. The Commission also calls attention to 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.

Thus, a municipal employee would not be prohibited from accepting an honorarium and/or reimbursement of expenses for consultations while on annual leave and provided that such consultations are not within the employee's course of employment.