

SUBJECT: AWARDS TO HIGHWAY PATROL TROOPERS OF THE YEAR

SUMMARY:

Finalists for the Highway Trooper of the Year are not prohibited by ethical rules from accepting awards presented by the SC Petroleum Council and other donors. The Secretary of State's Office should be contacted concerning the relationship with a lobbyist or lobbyist principal.

QUESTION:

The Associate Director of the South Carolina Petroleum Council questions whether the awards program sponsored by the Council and others needs to be modified to comply with the Ethics Reform Act. Each year, a Trooper of the Year is selected from nine finalists by a panel consisting of various State officials. The finalists are recognized at a luncheon funded by petroleum companies. The Trooper of the Year receives a pin, and all finalists receive a plaque funded by the Council. The Trooper of the Year also receives three nights complimentary lodging at a South Carolina hotel as well as an automobile for use during the vacation trip, sponsored by a hotel or motel and automobile dealership, respectively. Various trade associations provide monetary awards to the Trooper of the Year.

DISCUSSION:

This opinion is rendered in response to a letter dated February 3, 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.

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 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, including the cash awards are given to influence the finalists and the Trooper of the Year in their official activities. The donor(s) has no control over who will be the eventual recipients since that is handled through a selection committee. Also, although part of the award is cash in nature, it is not given as a reward for any specific advice or assistance rendered in the course of the employees' position responsibilities. Based upon the finding that there is no potential for influencing the employee in providing the awards and that there is a selection committee which makes the determination concerning the recipients, there does not appear to be a conflict with the program.

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.