

SUBJECT: ASSOCIATION PROVIDING DIRECTORY TO PUBLIC PERSONNEL

SUMMARY:

The SC Asphalt Pavement Association is not prohibited from distributing its Directory to public personnel since it is educational material of nominal value.

QUESTION:

The Executive Director of the SC Asphalt Pavement Association questions whether the Association may continue to distribute its Directory to Highway Department personnel, and the civil engineering faculty members at Clemson University, The Citadel, and the University of South Carolina. He also questions whether annual approval of such distribution is necessary.

DISCUSSION:

This opinion is rendered in response to a letter dated February 28, 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.

The State Ethics Commission calls attention to the provisions of Section 8-13-705 which provides:

(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 State Ethics Commission further notes that anything of value as defined in Section 8-13-100(1) excepts educational material of a nominal value directly related to a public employee's official responsibilities. It does not appear that the offer or acceptance of such a Directory of nominal value would be prohibited.

The State Ethics Commission further suggests that the Secretary of State's Office should be contacted if the Association is a lobbyist principal.