

SUBJECT: BOARD MEMBER SERVING ON PROFESSIONAL ASSOCIATION BOARD

SUMMARY:

A member of the SC Reinsurance Facility is not prohibited by the Ethics Reform Act from also serving on the board of a professional association. He would not be prohibited from receiving a meal or other benefits available to all members of the professional organization.

QUESTION:

A member of the SC Reinsurance Facility questions whether there would be a conflict for him to also serve as a director of the SC Association of Premium Service Companies. He also questions whether it is appropriate to accept a meal paid by the Association when he attends Association meetings since the Association does employ a lobbyist.

DISCUSSION:

This opinion is rendered in response to a letter dated June 19, 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 Ethics Reform Act of 1991 does not address the issue of who may serve on various public agency boards and commissions. The Commission would not find it to be inappropriate for a public officeholder to be associated with a professional organization and to be involved in its activities. However, the member is advised of the provisions of

Section 8-13-700(B) which provides in part as follows:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

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(5) if he is a public member, he shall furnish a copy to the presiding officer of any agency, commission, board, or of any county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

The member would be required to follow the above cited provisions whenever he is required to take official action or make decisions as a member of the Reinsurance Facility which will affect the economic interests of the Association. Economic interest is defined in Section 8-13-100(11) as:

(11)(a) Economic interest" means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's, public member's , or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

As to the second question, the Commission notes Section 8-13-710(A) which provides as follows:

(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 8-13-710(B) provides in part as follows:

(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.

Anything of value received from a lobbyist's principal is to be disclosed on the member's Statement of Economic Interests. In Advisory Opinion SEC AO92-025, the Commission advised that the receipt of a meal and materials for which the member has paid dues would not be prohibited since those benefits accrue to all members of that organization. The Commission, therefore, sees no prohibition against a public member accepting a meal from an Association of which he is a member.

Since this question involves relationships with a lobbyist principal, the Commission further advises that the Secretary of State's office be contacted.

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