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Advisory Opinion 12-08

*(Revised 08/24/12)*¹

(Acceptance of Travel Expenses and Waiver of Registration Fee)

SUMMARY: It would not be a violation of Colorado Constitution Art. XXIX for a commissioner of the Public Utilities Commission to accept the waiver of a registration fee for a conference at which he is speaking. Acceptance of travel expenses is not permissible under the circumstances of this request.

I. BACKGROUND

The Commission has received a request for advisory opinion, asking whether it would be permissible for a Commissioner of the Public Utilities Commission (“PUC”) to accept a waiver of the registration fee to a conference in San Diego, California at which he is speaking. According to the request, the conference is entitled the “Transmission Summit West 2012” (“Conference”) and is presented by Infocast, Inc., (“Infocast”) a for-profit company which organizes seminars for various industry groups. The requestor submitted information regarding the conference which shows that the conference is a three day event. The first day is labeled the “Transmission Executive Forum” (“Forum”).

¹ The Independent Ethics Commission (“IEC” or “Commission”) issued Advisory Opinion 12-08 on July 30, 2012. The requestor asked the Commission to clarify certain statements in the opinion. The Commission agreed, and this is a reissued opinion with some additional clarification.

Registration for the Forum is separate from registration for the rest of the conference.²

The commissioner will be participating in a panel discussion at the Forum, but has been invited to remain at the conference to the extent his schedule allows. The topic of the panel at which he is speaking is “Implementing Regional Planning and Inter-regional Coordination in the West.” Infocast has offered to waive the registration fee for the Forum and the conference and to reimburse the state for actual travel and lodging expenses by Infocast. The PUC asks whether it would be permissible to accept the expenses under these circumstances.

II. JURISDICTION

The IEC finds that a PUC commissioner is a “public officer” subject to the jurisdiction of the Commission. CO Const. Art. XXIX (2)(6).

III. APPLICABLE LAW

Section 3 of Article XXIX (Gift ban) reads in relevant part:

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person’s spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

² According to the request, and confirmed by the Infocast website, www.infocastinc.com, registration for the Forum is \$395 for government officials and employees, and the other two days are \$795 for a total of \$1190 for the full conference. Although the requestor has not specified the travel and lodging costs, based on a review of the brochure and costs of flights from Denver to San Diego, the cost of the trip is approximately \$1000 plus expenses.

(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

(e) Admission to and cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears to speak or answer questions as part of the scheduled program.

IV. DISCUSSION

Article XXIX section 3(3)(e) provides a specific exception to the gift ban provisions for admission to and cost of meals consumed at an event when a covered individual is speaking as part of the program. The Commission has previously construed this section as requiring that the individual be listed in the program as a speaker, (See, Advisory Opinions 11-03, 10-01 and Letter Ruling 09-06). The Commission has also stated that if a public official is speaking over several days at a conference, waiver of the registration fee for the entire conference is permissible. See, Advisory Opinion 12-04.

Although this request is distinguishable from the situation presented in Advisory Opinion 12-04³, the Commission believes that opinion is relevant here. As in Advisory Opinion 12-04, the PUC commissioner is traveling to an off-site location to participate in a panel regarding an issue that is central to the PUC's work. Because the commissioner has been invited to participate in panels only at the Forum, as distinct from the subsequent two-day conference, acceptance of the fee-waiver for the Forum is consistent with section 3(3)(e) of Article XXIX.

³ The requestor in the present case has been invited to speak only at the Forum, which is distinct from the Conference. The Conference occurs on subsequent days with a separate agenda and registration fee, and different participants and attendees. In Advisory Opinion 12-04, the requestor was invited to participate in panel discussions on each day of the conference and the registration fee for the conference was not itemized or severable by day.

Section 3(3)(e) does not, however, cover travel expenses. Acceptance of travel and lodging expenses is therefore not permissible under Section 3(3)(e) under the circumstances presented in the request.

IV. CONCLUSION

It would not be a violation of Colorado Constitution Art. XXIX for a commissioner with the PUC to accept a waiver of the admission fee for the days of the Forum at which he is speaking. It would, however, be a violation for the PUC commissioner to accept travel expenses and lodging as well as a waiver for admission to a conference at which he is not speaking as part of the program. The Commission cautions public officials and employees that this opinion is based on the specific facts presented in this request, and that different facts could produce a different result. The IEC therefore encourages individuals with particular questions to request more fact-specific advice through requests for advisory opinions and letter rulings.

The Independent Ethics Commission

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