



## INDEPENDENT ETHICS COMMISSION

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**Matt Smith**, *Chairperson*

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**Larry R. Lasha**, *Commissioner*

**Roy Wood**, *Commissioner*

**Jane T. Feldman**, *Executive Director*

**Doug Platt**, *Communication Director*

## Advisory Opinion 11-03

### (Acceptance of Expenses and Costs for Travel, Meals and other Items paid for by a Nonprofit Organization)

**SUMMARY:** It would not be a violation of Colorado Constitution Art. XXIX for a member of the General Assembly to accept the cost of a meal and a plaque as well as some other expenses from a nonprofit under the circumstances described in the request. However, acceptance of other travel expenses is not permissible.

### I. BACKGROUND

Representative Janak Joshi, a member of the General Assembly, has submitted a request to the Independent Ethics Commission (“IEC” or “Commission”) asking whether he may accept travel expenses from the Indian Friendship Council (“IAFC”), as well as a meal and an award<sup>1</sup>. IAFC, which gets more than 5% of its funding from for profit sources, has invited Rep. Joshi to speak at their banquet in Dallas, Texas, and receive the “Pride of India” award. According to information provided in the request, IAFC is a nonprofit organization that “provides and promotes political education and a common platform to exchange views with ....policy makers. Its mission is to improve United States-India relations, support developing countries, promote global democracy,

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<sup>1</sup> Representative Joshi has waived confidentiality relating to this request.

protect the interests of the Indian-American community, and educate Members of Congress.” IAFC has offered to reimburse Rep. Joshi for his travel expenses, including hotel, airfare, and expenses. Rep. Joshi will also receive food and beverages at the award banquet, and a plaque or similar item

## II. JURISDICTION

The IEC finds that Rep. Joshi, as a member of the General Assembly, is subject to the jurisdiction of the Commission. CO Const. Art. XXIX (3)(2).

## III. APPLICABLE LAW AND PRECEDENT

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, 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.

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

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**(c) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;**

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

**(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local**

**government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities.**  
(Emphasis supplied)

#### **IV. DISCUSSION**

##### *A. Acceptance of Admission to the Banquet*

The Commission finds that because Rep. Joshi will be speaking at the banquet as part of the scheduled program, he may accept the cost of admission to the banquet, as well as food and beverages at the event pursuant to Article XXIX, section 3 (3)(e).

##### *B. Acceptance of Travel and Hotel expenses*

The Commission finds that Rep. Joshi may not accept hotel and travel expenses, estimated at \$450, because none of the enumerated exceptions to the gift ban apply to these expenses, and the gift involved inures to the benefit of the individual involved, Rep. Joshi, and not to the State of Colorado. Furthermore, these expenses do not fall under Section 3 (3)(f) since the nonprofit receives more than 5% of its funding from for profit sources.

##### *C. Acceptance of a Plaque or similar item*

Representative Joshi may accept a plaque or similar item of appreciation pursuant to Article XXIX Section 3(3)(c).

##### *D. Acceptance of Additional Travel Expenses*

According to the request, Rep. Joshi will also incur approximately \$40 in additional expenses for local transportation to and from the airport in Dallas. The Commission finds that because the cost of the banquet and the plaque are specific exemptions to the gift ban, these expenses should not be considered in totaling the amount of

the gift provided to Rep. Joshi. Assuming therefore, that Rep. Joshi has not received any other gifts from IAFC in 2011, then he may accept no more than \$50 in reimbursement for expenses related to this trip.

## **V. CONCLUSION**

It would not be a violation of Colorado Constitution Art. XXIX for a member of the General Assembly to accept certain expenses under the circumstances presented in this request.

### **The Independent Ethics Commission**

*Matt Smith, Chairperson,  
Dan Grossman, Vice Chairperson  
Sally H. Hopper, Commissioner  
Larry R. Lasha, Commissioner  
Roy Wood, Commissioner*

Dated: February 23, 2011