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INDEPENDENT ETHICS COMMISSION

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Advisory Opinion 12-05

(Acceptance of Travel Expenses to a Conference)

SUMMARY: It would not be a violation of Colorado Constitution Art. XXIX for a county commissioner to accept travel reimbursement to a conference under the circumstances of this request.

I. BACKGROUND

The Independent Ethics Commission (“IEC” or “Commission”) has received a request for advisory opinion, asking whether it would be permissible for a county commissioner to accept travel reimbursement for a conference sponsored by the National Association of Counties (“NaCo”) to be held in Washington, D.C. According to the request, the conference, the Ninth Annual County Leadership Institute, (“CLI”), “addresses the challenges, and directs the potential of local elected officials to forge positive, sustained change in their communities.” The attendees are nominated by the executive director of the local NaCo affiliate, in this case, Colorado Counties, Inc. (“CCI”). The requestor’s county will pay \$1600, the cost of registration for the conference and lodging. According to information from CCI, only county officials are invited; no lobbyists or vendors will be present or participating. The commissioner’s county pays \$10,517 in annual dues to NaCo. The national organization is a nonprofit that gets more than 5% of its funding from for profit sources.

II. JURISDICTION

The IEC finds that the county commissioner is a “local government official” subject to the jurisdiction of the Commission. CO Const. Art. XXIX (2)(3).

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.

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

(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.

IV. DISCUSSION

Because the county has agreed to reimburse the commissioner for all expenses incurred in attending the CLI conference, such reimbursement is permissible pursuant to the “other state or local government” exception of Section 3(3)(f). There is no indication that either the selection process for attendees or the conference itself present issues of conflict of interest or appearance of impropriety. Therefore, acceptance of reimbursement from the county is permissible under Article XXIX.

IV. CONCLUSION

It would not be a violation of Colorado Constitution Art. XXIX for the county commissioner to accept reimbursement from the county under the circumstances of this request. 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

Dan Grossman, *Chair*
Sally H. Hopper, *Vice Chairperson* (Recused)
Bill Pinkham, *Commissioner*
Matt Smith, *Commissioner*

Dated: May 7, 2012