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INDEPENDENT ETHICS COMMISSION

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Advisory Opinion 13-09

(Travel Paid for With Personal Funds)

SUMMARY: It would not be a violation of Colorado Constitution Art. XXIX for the President of History Colorado to participate in a trip to Washington, D.C. paid for with his personal funds under the circumstances described in the request.

I. BACKGROUND

History Colorado has submitted a request to the Independent Ethics Commission (“IEC” or “Commission”) asking whether its President may participate in a trip to Washington, D.C., organized by a nonprofit organization with which he is affiliated, but paid for out of his personal funds. In particular the requestor is concerned whether the trip presents a conflict of interest because he will be flying on the personal plane of one of History Colorado’s largest donors. The requestor will be paying for the flight.

According to the request, History Colorado is a separate organization which resides within the Colorado Department of Higher Education. “It is governed by a Board of Directors, which appoints a President and staff to carry out the operations of (the) organization.” History Colorado is partially funded by state general funds, partially from federal funds, and partially by private donations. This trip is organized by Colorado Thirty Group, a nonprofit organization. According to the organization’s web site, [i]ts

mission is to educate, inform and foster understanding and cooperation between the civilian community, the government of the United States, and the armed forces.” The request states that the requestor has been an individual member of Colorado Thirty Group for approximately 10 years. He was a member prior to his employment with History Colorado. Membership in the group is by invitation only.

II. JURISDICTION

The IEC finds that the President of History Colorado is a government employee and subject to the jurisdiction of the Commission. See CO Const. Art. XXIX, sec. 2(1) and sec. 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, 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.

IV. DISCUSSION

This request does not fall under the gift ban provisions of Article XXIX, section 3. The requestor is not receiving a gift of travel, or any other kind. He is paying his own expenses. He is concerned, however, that accepting an invitation on a major donor’s private plane could create an appearance of a conflict of interest or appearance of impropriety. According to the request, the purpose of this trip will be “to further the

relationship between the Colorado Thirty Group and military commanders to assist them in fulfilling their missions and roles by creating better understanding and education between military leadership throughout Colorado.” The request states that the building of these relationships may benefit History Colorado as well. Based on the facts before us, the Commission sees no basis for a conflict or an appearance of impropriety so long as the requestor is paying fair market value for the plane ride.

IV. CONCLUSION

It would not be a violation of Colorado Constitution Art. XXIX or any other standards of conduct or reporting requirement for the President of History Colorado to participate in a trip funded personally. 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*
Rosemary Marshall, *Commissioner*
Bill Pinkham, *Commissioner (Did not participate)*
Matt Smith, *Commissioner*

Dated: April 08, 2013