

**ADVISORY OPINION #95-43**

**ISSUED BY THE**

**WEST VIRGINIA ETHICS COMMISSION**

**ON OCTOBER 5, 1995**

**GOVERNMENTAL BODY SEEKING OPINION**

An Association of Law Enforcement Officers

**OPINION SOUGHT**

Is it a violation of the Ethics Act for revenue from telephone sales solicitations conducted by a telemarketing firm in the name of the Association to be used to pay for meals, travel and lodging of the Association's Executive Board Members and for its lobbying efforts?

**FACTS RELIED UPON BY THE COMMISSION**

A telemarketing firm has contracted with the Association to conduct an ongoing telephone sales promotion in the name of the Association. The promotion stresses that revenues from the sale of packaged jams and jellies will benefit the Association, its public service projects and law enforcement generally. The Association members themselves take no part in the telephone sales solicitations. In return for the use of its name, the Association receives a small percentage of the telemarketer's sales to customers in West Virginia.

**PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION**

West Virginia Code §6B-2-5(b)(1) states in pertinent part that...a public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person...

**ADVISORY OPINION**

The Ethics Act prohibits public servants from using their public office or the prestige of their office for their own private gain. It tells public servants they may not use their public positions, or the authority or influence of their public positions, to further their own personal financial goals.

The Commission has ruled that an association of public servants is bound by the same ethical standards to which its constituent members are subject. Therefore, the prohibition against the use of prestige of office applies to the Association as well as its individual members.

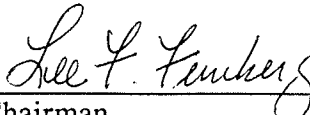
The sale of the Association's name to the telemarketing firm is the use of the prestige of the public positions or offices of the Association's police officer members. The Commission finds that this use of the prestige of office as a sales marketing tool is a violation of the Ethics Act, if the proceeds which accrue to the Association and its members are used for the personal benefit of the Association members or their immediate families.

It would be a violation for revenues generated by the sales promotion to be used to finance the operation of the Association, i.e. pay its officers a salary, pay Association office, travel or entertainment expenses or the cost of professional services for the Association. It would also be a violation to use such revenues to pay expenses, including fees for professional lobbyists, to lobby for a pay raise or increased health or pension benefits for the Association members. These are expenditures which the Association must pay for with dues or funds from other appropriate sources.

However, it would not be a violation for revenues generated by the sales promotion to be used for charitable purposes from which the members and their families benefitted no more than the public at large or to be used for law enforcement purposes unrelated to income or health and pension benefits for the Association's members.

Further, it would not be a violation to use such revenues to pay lobbying expenses, including reasonable fees for professional lobbyists, to lobby for public service or law enforcement laws from which the members and their families derived no more financial benefit than the public at large. This approval of public service or law enforcement laws does **not** extend to activities supporting pay raises, increases in pension benefits, or other comparable improvements in the working or living conditions of active and retired officers.

The Commission notes that if the Association continues its contractual relationship with the telemarketer, it is responsible to segregate sale proceeds to insure that they are used for appropriate purposes and not commingled with Association dues and used for the personal financial benefit of its members.

  
Chairman