

ADVISORY OPINION NO. 91-70
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON OCTOBER 3, 1991

GOVERNMENTAL BODY SEEKING OPINION

The Executive Director of a State Commission

OPINION SOUGHT

Whether it is a violation of the Ethics Act for public employees or officials to accept an award from a State Commission?

FACTS RELIED UPON BY THE COMMISSION

One of the legal mandates of the requestor's State Commission is to develop an outreach program to familiarize the public with the rights, needs and available services for a particular group of impaired citizens.

One of the things that the Commission does to fulfill its mandate is to have an appreciation ceremony every year. During this ceremony, the Commission makes presentations to recognize people who have made significant contributions to the improvement of services or the quality of life for certain impaired people in the State.

The Commission has given plaques to various individuals which cost between \$35 to \$40. The requestor has stated that these plaques have only a sentimental value.

These presentations or awards of recognition could go to any individual, such as the Governor, a State official, a State employee or a private citizen who has helped these individuals. The cost of the award is paid by private contributions and no State money is involved.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-5(c)(1) states in pertinent part that... No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

- (A) Is doing or seeking to do business of any kind with his or her agency;
- (B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

West Virginia Code Section 6B-2-5(c)(2) states in pertinent part that...a person who is a public official or public employee may accept...

(B) Ceremonial gifts or awards which have insignificant monetary value;

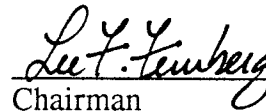
ADVISORY OPINION

Pursuant to subsection 6B-2-5(c)(1) of the Ethics Act a public official or a public employee may not accept a gift from persons seeking to conduct business with his or her agency, persons having an interest in the performance of the public official's duties or from persons who are or may be regulated by the public official's governmental agency. This subsection also prevents a public official or employee from accepting gifts **indirectly** from persons in the prohibited categories.

The Commission notes that public officials or public employees may be prohibited from accepting gifts from the State Commission since the award is funded by private contributions. It would be difficult to determine if such donations were contributed by persons who fall within the categories outlined above.

However, subsection 6B-2-5(c)(2) of the Ethics Act establishes several exemptions from the prohibition against the acceptance of gifts by public officials and employees. One such category is ceremonial gifts which have insignificant monetary value. The Commission finds that although the plaques have an actual cost of \$35 to \$40, the **monetary value** of such plaques is insignificant. Such awards are intended as recognition for outstanding service and essentially have only sentimental value. There would not be a market for such an item if the recipient attempted to sell the plaque for cash.

Therefore, it would not be a violation of subsection 6B-2-5(c)(1) of the Ethics Act for public employees or officials to accept awards in the form of plaques from a State Commission which are funded by private donations since the plaques have insignificant monetary value.


Chairman