

OPINION 1995-1

TO: MEMBERS, SOUTH CAROLINA SENATE

FROM: SENATE ETHICS COMMITTEE

DATE: FEBRUARY 7, 1995

RE: OPINION 1995-1

The Senate Ethics Committee has received the following questions that we feel should be answered through this Opinion:

First, is there any prohibition against elected officials participating or hosting a dinner to benefit a non-profit corporation? Second, several businesses have indicated an interest in sponsoring this event. Is there any prohibition against a business sponsoring an event to honor an elected official? Third, can donations from lobbyists' principals be accepted? All donations will be made directly to the non-profit corporation.

In answering these questions, the Committee feels that it is necessary to remind Members of the definitions of "Anything of value", and "Lobbyist's principal", as defined in *The Ethics, Government Accountability, and Campaign Reform Act of 1991*:

"SECTION 8-13-100. Definitions.

As used in Articles 1 through 11:(1) (a) "Anything of value" or "thing of value" means:

- (i) a pecuniary item, including money, a bank bill, or a bank note;
- (ii) a promissory note, bill of exchange, an order, a draft, warrant, check, or bond given for the payment of money;
- (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
- (iv) a stock, bond, note, or other investment interest in an entity;
- (v) a receipt given for the payment of money or other property;
- (vi) a chose-in-action;
- (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
- (viii) a loan or forgiveness of indebtedness;
- (ix) a work of art, an antique, or a collectible;
- (x) an automobile or other means of personal

transportation;

(xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;

(xii) an honorarium or compensation for services;

(xiii) a promise or offer of employment;

(xiv) any other item that is of pecuniary or compensatory worth to a person.

(b) "Anything of value" or "thing of value" does not mean:

(i) printed informational or promotional material, not to exceed ten dollars in monetary value;

(ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;

(iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;

(iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;

(v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;

(vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or

(vii) a campaign contribution properly received and reported under the provisions of this chapter."

Section 2-17-10(14) defines a "Lobbyist's principal" as follows:

"'Lobbyist's principal' means the person on whose behalf and for whose benefit the lobbyist engages in lobbying and who directly employs, appoints, or retains a lobbyist to engage in lobbying. However, a lobbyist's principal does not include a person who belongs to an association or organization that employs a lobbyist, nor an employee, officer, or shareholder of a person who employs a lobbyist. If a membership association or organization is a lobbyist's principal, the association or organization must register and report under the provisions of this chapter.

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A person is considered a lobbyist's principal only as to the public office or public body to which he is authorized, pursuant to this chapter, a lobbyist to engage in lobbying.¹

The Ethics Act was written in part to distance Members from possible conflicts of interest between them and lobbyist and lobbyist's principals. The Ethics Act was not written to prohibit Members from engaging in the normal day to day activities of highly involved community service. The Committee understands, and through previous writings reveals it's opinion², that Membership in the Senate of South Carolina should not close the door on community involvement, in fact in most all cases, Members see a rapid increase in their donation of time and resources to many community service organizations.

To answer the first question presented in this opinion we say; there is no prohibition against elected officials participating in or hosting a dinner to benefit a non-profit corporation.

Participating in or hosting a function to benefit a non-profit corporation is a longstanding function of elected officials and especially Members of the Senate of South Carolina. The public of this state expect, and in many cases almost demand, that Members participate in various functions that benefit charitable organizations. Our (the Members of the Senate) collective

¹This definition of a "Lobbyist's principal" recently became law; on January 12, 1995.

²The Senate Ethics Committee Opinions 1993-4 and 1993-7, guide Members as to what is acceptable use of campaign funds, in particular we point to the thought process of the Committee as it discussed in these opinions how Members are often asked to donate money to various groups that they would not ordinarily be asked to donate to, were it not for their elected position. The Committee feels that these opinions, though they do not deal with the questions presented in this Opinion, 1995-1, speak volumes as to the proper conduct of Members concerning community involvement and charitable work. We further direct Members to Senate Ethics Committee Opinion 1993-6, which deals with Members being appointed to serve on the Trident Region's Better Economic Solutions Together(B.E.S.T.) Policy Committee; a committee created by Executive Order. The B.E.S.T. committee membership was allowed by the Committee. Even though this Opinion dealt with separation of powers, the thought process of the Committee is clear, Members involvement in community affairs increases from the date of election to this body and should not be hampered.

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donations to and involvement with non-profit corporations and charitable organizations surely must reach into the thousands of dollars each year, not to mention the time donated by members to such groups each year. The Ethics Act does not prohibit these actions by Members.

The second question presented can be answered with a qualified no. Businesses can financially and through in-kind contributions, sponsor an event that honors a Member.

This is also a longstanding tradition. Members are recognized for their many years of involvement to the community or particular groups of the community, with events like a banquet. In many cases, the group wishing to honor the Member seeks corporate sponsorship of such events. In most cases, as is in the one presented in this question, the proceeds derived from the event are donated to a non-profit corporation or charitable organization. We see nothing that would prohibit a Member from being so honored nor do we find anything that would prohibit other Members from participating in organizing such events.

We do, however, caution the Members to be aware of Section 8-13-100(1)(b) and 8-13-100(b)(iii) which reads as follows:

"(b) 'Anything of value' or 'thing of value does not mean:'

"(iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars"

Therefore,, Members being so honored should not accept an award that exceeds the threshold of one hundred fifty dollars.

The third part of this question deals with the acceptance of financial donations from lobbyist's principals to an event that is being hosted by Members to honor a Member, while the proceeds from the event will be donated to a non-profit corporation or charitable organization.

A lobbyist's principle is not prohibited from donating to this type of event, nor are Members prohibited from participating in this type of event. A thorough reading of the Ethics Act does not prohibit members from engaging with lobbyist's principals in events or activities as described in this series of questions. Community involvement, and the giving of time and resources to non-profit corporations and charitable organizations is deemed a proper function of Members and of corporate citizens.

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Members are cautioned, however, that the soliciting of contributions for such an event should be made directly to the lobbyist's principle and not the lobbyist. The appearance of any contact with a lobbyist concerning such donations should be avoided. Members are reminded that in all cases, the activities of individual Members must meet both the spirit and the letter of the *The Ethics, Government Accountability, and Campaign Reform Act of 1991*. Activities of Members of the Senate of South Carolina, not only must be right but also should look right in the eyes of the public.