

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 2001-EC-002 Issued March 16, 2001

ISSUE:

Whether it would be permissible for the Arkansas Game & Fish Commission to present a golf shirt costing thirty dollars (\$30.00) to a member of the General Assembly as a token of appreciation for his or her support?

BRIEF ANSWER:

Yes. Although Ark. Code Ann. § 21-8-801(1) prohibits the receipt of a gift intended to reward a public servant for doing his or her job, the definition of "gift" specifically excludes anything with a value of one hundred dollars (\$100.00) or less.

DISCUSSION:

The Ethics Commission has received a written advisory opinion request from the Arkansas Game & Fish Commission ("AG&FC"). The question presented is whether or not it would be permissible for the AG&FC to present a golf shirt embroidered with the AG&FC logo to a member of the General Assembly as a token of appreciation for his or her support.

According to the materials which accompanied the AG&FC's opinion request, the cost of such a shirt is thirty dollars (\$30.00). It is the Commission's understanding that the AG&FC intends to offer a shirt to each member of the General Assembly and that the shirts are not being offered in exchange for official action.

The receipt of gifts by public servants is addressed in Ark. Code Ann. § 21-8-801(1). That subsection provides, in pertinent part, that "[n]o public servant shall...receive a gift...for the performance of the duties and responsibilities of his or her office or position."

In similar fashion, § 303 of the Commission's Rules on Gifts provides that "[n]o public servant shall receive a gift for the performance of the duties and responsibilities of his or her office or position." It further provides that "[f]or purposes of this rule, a gift shall be prohibited if it is intended to reward a public servant for doing his or her job."

The term "gift" is defined in both Ark. Code Ann. § 21-8-402(5) and § 300(b) of the Commission's Rules on Gifts to mean "any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor." The definition goes on, however, to exclude certain items from that meaning. Among the items excluded is "[a]nything with a value of one hundred dollars (\$100) or less."

The receipt of items intended to show appreciation for a public servant's job performance is expressly addressed in § 303(c) of the Commission's Rules on Gifts, which provides as follows:

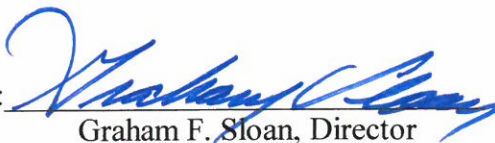
A public servant is not prohibited from receiving an item conferred to show appreciation for the public servant's job performance (i.e., to reward the public servant for doing his or her job) so long as the value of the item does not exceed one hundred dollars (\$100.00). Items costing more than one hundred dollars (\$100.00) which are given to public servants to show appreciation for their efforts (i.e., to reward them for doing their job) or to reward them for past or future action are prohibited under this rule.

Upon consideration of the facts presented in the instant opinion request, the Commission has concluded that it would be permissible for the AG&FC to present the golf shirts in question to members of the General Assembly. Although the shirts are being conferred to show appreciation for job performance, their value does not exceed one hundred dollars (\$100.00).

It must be noted, however, that offering something of value to a member of the General Assembly in exchange for official action is not permissible. Such conduct is prohibited by not only the Arkansas Constitution but also the Arkansas Criminal Code. See, e.g., Article 5, § 35 of the Arkansas Constitution and Ark. Code Ann. § 5-52-103.

This opinion is issued by the Arkansas Ethics Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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By: 
Graham F. Sloan, Director