

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 99-EC-016 **Issued September 17, 1999**

The Ethics Commission has been asked to answer several questions concerning company sponsorship of a conference being held in Little Rock on September 23-26, 1999. That conference is the 1999 Annual Meeting of the Energy Council (the "Council").

The Council is an organization which consist of elected legislators from ten (10) energy-producing states.¹ It was formed in 1975 and serves as a forum for energy and related environmental policy development.²

The member states of the council produce more than 80 percent of U.S. oil and gas output. Based upon the common interest of energy resources, the Council works to participate in the formation of energy policy at all levels.

The Council holds themed, quarterly conferences to consider various issues. Those conferences are open to legislators, government employees, members of the Center for Legislative Energy and Environmental Research (the Council's research affiliate), and members of the public at large.

During fiscal year 1998-1999, the Council held conferences on the topics of "resource conservation and development", "electric restructuring", and "technology, research and education". The final quarterly conference is the Council's 1999 Annual Meeting.

The Commission has reviewed the preliminary agenda for the Council's 1999 Annual Meeting. It denotes that there will be a welcoming reception, breakfast

¹ Those states are Alabama, Alaska, Arkansas, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma, Texas, and Wyoming. The Council also has two international affiliates—the Canadian province of Alberta and the nation of Venezuela.

² The Council was first known as the Southwest Regional Energy Council and later as the South/West Energy Council.

presentations, keynote addresses, and presentations on a number of energy related topics, a field trip to the Arkansas Power and Light Nuclear Plant followed by a reception and dinner, a gala at The Old State House, and a business meeting.

According to the advisory opinion request, the Council is soliciting sponsorships that range from \$500.00 to \$5,000.00 from various industries and utilities to help defer the cost of the conference. Funds are also received in the form of registration fees paid by persons attending the conference.

The opinion request states that entities being asked for sponsorship are not limited to Arkansas. The number of public officials attending the conference from other states is expected to far outnumber those from Arkansas.

Question #1

Whether there is any prohibition against a company sponsoring the Energy Council's meeting in Little Rock.

Answer:

The Commission has concluded that there is no prohibition against a company sponsoring the Energy Council's 1999 Annual Meeting. A related question as to whether such sponsorship would have an effect under Ark. Code Ann. §§ 21-8-701³ or 21-8-801(1)⁴ on public servants attending the event will be addressed in the next answer.

Question # 2

If the company has a registered lobbyist, should the sponsorship be reported on the registered lobbyist's Lobbyist Activity Report?

Answer:

A review of the preliminary agenda for the 1999 Annual Meeting shows that there will be presentations and discussions on a variety of issues related to energy and environmental protection. The Commission has concluded that the conference is in the nature of an educational seminar or scholarly discourse. The social activities which have been planned are reasonable and, therefore, do not change the essential nature of the conference.

It is the Commission's opinion that a legislator who attends the conference would be appearing in his or her official capacity. Moreover, the Commission finds that the

³ Pursuant to Ark. Code Ann. § 21-8-701, a public servant filing a statement of financial interest is required to report, among other things the source, date, fair market value and description of "each gift of more than one hundred dollars (\$100) received by the public servant."

⁴ As stated in Advisory Opinion No. 99-EC-007, it is the Commission's opinion that 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.

appearance would bear a sufficient relationship to the legislator's official duties and responsibilities.⁵

It is the Commission's understanding that registration is open to members of the public at large. Additionally, the Commission understands that public servants attending the event will receive no greater benefit from company sponsorship than other members of the public attending the conference.

Based upon consideration of the foregoing factors, it is the Commission's opinion that company sponsorship of the event would not need to be reported on a Lobbyist Activity Report. The Commission has also considered whether or not company sponsorship of the event in question would have an effect under either Ark. Code Ann. §§ 21-8-701 or 21-8-801(1) on public servants attending the event. It is the Commission's opinion that such sponsorship would not constitute a "gift"⁶ implicating either of these statutes.

Question #3

If the sponsorship should be reported, please state how it should be reported and whether other expenses that the company may have, for instance, registration, meals, and lodging can be reported in the aggregate with the contribution or must be reported separately.

Answer:

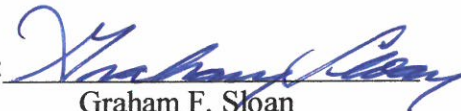
As stated in the preceding answer, company sponsorship is not required to be reported on a Lobbyist Activity Report in situations where (i) a public servant appears in his or her official capacity at an educational seminar which bears a relationship to the duties and responsibilities of his or her office or position, (ii) the event is open to members of the public at large and (iii) public servants attending the event will receive no greater benefit from the sponsorship than other members of the public in attendance.

⁵ As recognized in Advisory Opinion No. 99-EC-007, in order to find that an appearance bears a relationship to a public servant's office or position, it must further a purpose of the governmental entity which he or she serves. Moreover, the interest of the governmental entity which employs the public servant must outweigh the likelihood that attending the event will improperly influence the public servant in the performance of his or her official duties and responsibilities.

⁶ The term "gift" is defined in Ark. Code Ann. § 21-8-402(5) 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.

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

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