



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 84-9

Gifts by a Lobbyist to a Public Official

A Connecticut trade association representing the construction industry has established an award, expected to be given annually, honoring an individual, group, or association whose contribution to the industry merits public recognition. The award is made during the trade association's annual meeting. In recognition of the award its recipient receives a sculpture. The sculpture cost several hundreds of dollars. The trade association intends to have an identical sculpture created each year to be given to the person receiving that year's "Building a Better Connecticut" award.

The trade association is registered as a lobbyist pursuant to the Code of Ethics for Lobbyists, Chapter 10, Part II, General Statutes. It has asked the implications of giving the sculpture accompanying the award to a public official, considering subsection 1-97(a) of the Code. That section, in part, provides that no registered lobbyist may give to a public official a gift with a value of \$50 or more. There is a corresponding section in the Code of Ethics for Public Officials (Chapter 10, Part I, General Statutes) which forbids a public official to accept from someone known to be a registered lobbyist a gift with a value known to be \$50 or more. Subsection 1-84(j), General Statutes.

Regarding a more mundane situation, the Commission has declared that "value" in subsection 1-97(a) equals the cost to the donor. In the context of the subsection, it was considered of no consequence whether or not the donor got a good deal. Ethics Commission Advisory Opinion No. 81-12, 43 Conn. L.J. No. 13, p. 13 (September 29, 1981). In the case at hand, fair market value probably would be a better measure of the value of the award for purposes of subsection 1-97(a).

It was the trade association's decision to give to the award winner a work of art rather than the more common plaque. There is no indication that the sculpture's value has been destroyed by personalizing it for the recipient. The fact that duplicates of the original will be sculpted each year may reduce the market value of the sculpture a little. It is likely, and it is assumed for the purpose of argument in any event, that the fair market value as well as the cost of the sculpture is at least \$50 or more.

A piece of sculpture given at an annual meeting could perhaps be considered an "honorarium" if the recipient is a person required to file an annual statement of financial interests. Such persons may accept modest recompense "for any

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appearance or the delivery of an address to any meeting of any organization". Subdivision 1-83(b)(2), General Statutes. That interpretation fails on at least one count, however. The award is made not for attending the annual meeting but for contributions to the construction industry. It would be presented were the recipient not able to be at the meeting. Further, the value of the award stretches the term "modest".

If the award is given to the office of the public official and not to the public official personally, then the public official has received nothing and there is no issue. The award would remain behind when the public official leaves office.

If the award is made to the public official, on the assumption that its value is \$50 or more its donation is a violation of subsection 1-97(a), above, and its knowing receipt a violation of subsection 1-84(j), above. Whether or not the Codes of Ethics for Public Officials and for Lobbyists intended the result, there seem to be no provisions in the Codes or in regulations issued pursuant to them which authorize a public official knowingly to accept, or a registrant to give, such a gift. It may seem unnecessary for the Codes to prohibit a registrant from giving a piece of sculpture of moderate value to a public official whose performance of duty is considered praiseworthy by the donor. But it might well be possible to sell the work of art for \$1,000 or so. If a public official were to accept \$1,000 as part of the award, or something more utilitarian than a piece of art -- a set of golf clubs worth \$1,000 -- , from someone known to be a registrant, both Codes of Ethics would have been violated. The Codes have chosen monetary value, not the nature of the gift, as the criterion.

By order of the Commission,



Lucille E. Brown
Chairperson

Dated 10 May 1984