

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

Issued to:

Harold Thomas High
17870 County Road 34
Norwood, MN 55378

RE: Gift to Legislators

ADVISORY OPINION #200

SUMMARY

200. A lobbyist is prohibited from providing a gift to a legislator and from requesting another to give a gift to a legislator. Legislators are prohibited from accepting a gift from a lobbyist or a lobbyist principal or a gift that a lobbyist or a lobbyist principal has requested another to give to a legislator. Minn. Stat. § 10A.071, subds. 1 and 2. The complimentary copy of a book described in this request is not within the exceptions to the gift prohibitions in Minn. Stat. § 10A.071, subd. 3.

FACTS

As a lobbyist who is registered to represent himself, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. You would like to arrange for a gift to all 201 Minnesota legislators in the form of a copy of a book, The Parental Alienation Syndrome, for the purpose of providing information to the legislators about forthcoming legislative proposals regarding family law.
2. You do not represent any official group or organization in this endeavor; you represent yourself.
3. You plan to contact private citizens who will send money to the publisher of the book, not to you. In no case will any private citizen send more than \$250 to the publisher. You estimate that the number of private citizens contributing will be about 300 to 400.
4. You estimate that the price per copy will be about \$20 to \$25; the book retails for \$30, plus \$5 shipping.
5. Any legislator who chose to refuse the gift is free to forward the book to your home address. Each book returned to you will be forwarded to a U. S. congressman.

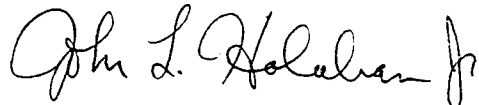
QUESTION

Does it make any difference whether the publisher mails each copy to each legislator or the publisher mails each copy to you, a registered lobbyist, for delivery to each legislator's office?

OPINION

No. As a lobbyist, you are prohibited from providing a gift to a legislator and from requesting another to give a gift to a legislator. Minn. Stat. § 10A.071, subds. 1 and 2. Legislators are prohibited from accepting a gift from a lobbyist or a lobbyist principal or a gift that a lobbyist or a lobbyist principal has requested another to give to a legislator. Based on the information presented in this request, the Board concludes that the complimentary copy of the book is not within the exceptions to the gift prohibitions in Minn. Stat. § 10A.071, subd. 3.

Issued: 2-3-1995



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

Subd. 11. (a) "Lobbyist" means an individual:

...

(2) who spends more than \$250, not including the individual's own traveling expenses and membership due, in any year for the purpose of attempting to influence legislative or administrative action or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials

...

Subd. 18. "Public official" means any:

(a) member of the legislature;

(b) constitutional officer in the executive branch and the officer's chief administrative deputy;

(c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;

(d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;

(e) individual employed in the executive branch who is authorized to adopt, amend or

repeal rules or adjudicate contested cases;

- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;
- (p) the director of the racing commission, the director of the gambling control board, the director of the state lottery, and the deputy director of the state lottery;
- (q) director or the division of gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority; or
- (s) member of the board of directors or president of the Minnesota world trade center corporation.

...

Minn. Stat. § 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED provides:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

Subd. 2. **Prohibition.** A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

- (1) a contribution as defined in section 10A.01, subdivision 7;
- (2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (3) services of insignificant monetary value;
- (4) a plaque or similar memento recognizing individual services in a field of specialty or

to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) the prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.