

August 8, 1996

Advisory Opinion 1996 - No. 10

The Board has received a request for an advisory opinion from Norman Stanley, Manager of Public and Government Affairs for Texaco, Inc. Mr. Stanley has waived the right to confidentiality afforded to persons requesting advisory opinions.

QUESTION

Would it violate the state ethics law for Texaco to provide complimentary admissions, including food and beverage, to the VIP area at the SEAFAIR hydroplane race, under the following circumstances?

Texaco is the primary sponsor of the SEAFAIR Unlimited Hydroplane Race on Lake Washington, one of the major events of the Seattle SEAFAIR celebration. This year's race is scheduled for August 4, 1996.

Texaco's contract with SEAFAIR began in 1994 and runs for five years. The contract requires that Texaco set aside a "VIP Hospitality Area at the site of the event with VIP credentials for 800 people each day, including at least 400 grandstand seats inside the VIP area." The contract also requires Texaco to "host an additional 250 government officials, SEAFAIR volunteers and associate event sponsors on race day." This complimentary admission also includes sandwiches, salads, and beverages.

The invited guest is allowed to bring an additional guest of his or her choosing. With the full value attributed to the invited legislator, the monetary value would be in excess of \$50. The request further states that "this is not a political event and there is no intention to discuss politics."

OPINION

Such an invitation for complimentary admission, food and beverages would be a violation of the ethics law under the facts stated in the request if issued by Texaco, Inc.

ANALYSIS

RCW 42.52.150(2)(g) provides a rebuttable presumption that the \$50 gift limit, as well as the reasonable expectation rule of RCW 42.52.140, do not apply to the "admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization."

RCW 42.52.010(9)(d) exempts from the gift definition "payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity."

In **Advisory Opinion 1995 - No. 10**, we construed participation on a tour of timber production areas to be an appearance in an official capacity, and found permissible the payment of expenses by a lobbying organization. In **Advisory Opinion 1996 - No. 8**, we interpreted the trade mission language

to include complimentary participation in an international trip. However, the opinion raised a concern about payment of expenses by a third-party lobbyist participant in the trade mission. In that case it was determined permissible because the company's participation was limited to hosting a dinner, which would have been permissible in any case.

In **Advisory Opinion 1996 - No. 1**, we found that acceptance of payment for educational programs from registered lobbyists or lobbyist-employers would be an ethics violation if it exceeded the \$50 annual limit, except when the lobbyist was a sponsor of the program. Similarly, in **Advisory Opinion 1996 - No. 2**, we found that payment of admission in excess of the \$50 limit to a political fundraiser could not be accepted from third-party lobbyists.

In this situation, the legislator's appearance would not be in an official capacity. Although Texaco is required to invite "government officials," there is no official purpose served by the attendance of legislators at the event. The race is purely a sports entertainment event which is not a part of official duties.

The SEAFAIR hydroplane race does fall within the category described in RCW 42.52.150(2)(g): "events sponsored by or in conjunction with a civic, charitable, governmental, or community organization." The statute establishes a presumption that the cost of admission, as well as the cost of food and beverages consumed at such events, will not be subject to the \$50 gift limit, nor "influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction" (RCW 42.52.140; 150).

Even though the statute establishes a presumption in favor of permitting such complimentary admissions, the Board has been careful to examine that presumption when lobbyists or lobbyist-employers are issuing the invitation. For the purposes of the exception in RCW 42.52.150(2)(g), the presumption is overcome if the invitation to a community entertainment event comes directly from a registered lobbyist or lobbyist-employer. When dealing with lobbyist involvement in such events, it is as important to avoid the appearance of a violation as an actual violation. Therefore, the Board will strictly construe the reasonable expectation statute in the kind of circumstances described in this opinion request, where the attendance by legislators does not involve their official duties.

On the other hand, when the invitation comes directly from the "civic, charitable, governmental, or community organization," and there is no link to the lobbyist or lobbyist-employer stated or implied by the invitation, the circumstances are not likely to overcome the presumption and represent a violation. In any event, we will review the strength of the presumption afforded by RCW 42.52.150(2) on a case-by-case basis and will carefully scrutinize the circumstances surrounding events similar to the one presented here.