

November 13, 1997

**Advisory Opinion 1997 - No. 10
Museum Reception**

The Board has received a request for an advisory opinion from Ross Baker, Senior External Affairs Manager and Land Use Policy Counsel for AT & T Wireless Services. Mr. Baker has waived confidentiality.

QUESTION

Would it be a violation of the ethics law for legislators to accept complimentary invitations to museum events sponsored by AT&T Wireless assuming the following conditions?

"Both events are part of the continuing AT&T Wireless Services commitment to the community and are charitable fundraisers for the Seattle Art Museum and the Bellevue Art Museum. In both cases, AT&T is the corporate sponsor and is inviting customers and local dignitaries -- including area legislators, local officials, and community leaders -- to a reception and dinner at the museum."

Both events will include a hosted reception and sit-down dinner. The Seattle event includes complimentary entrance to the museum collection. The Bellevue event also includes a costume ball. The reception and dinner portion will include presentations on AT&T Wireless Services. It is also expected that business and legislative issues will be discussed by AT&T representatives with the attending legislators.

OPINION

The reception and dinner portion of the events would not violate the State Ethics Act, but admission to the museum exhibit and the dance are considered non-incident entertainment, subject to the gift limitations. The value of the gift portion may be calculated separately, subject to the conditions stated in this opinion.

ANALYSIS

RCW 42.52.150 prohibits gifts in excess of fifty dollars in a single calendar year. The value of each of the events in this request exceeds the fifty dollar limit.

A. FOOD AND BEVERAGE

The events described in this request are similar to the Restaurant Association event addressed by the Board in **Advisory Opinion 1996 - No. 15**. In that opinion the Board advised that a combination reception and dinner such as that described in this request does not properly fall within the "hosted reception" exception in RCW 42.52.150(2)(f). It may, however, meet the exception stated in RCW 42.52.150(5): "a state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties."

In the earlier opinion, the Board noted that "most large banquet settings" do not meet the "official

duties" test, because they do not carry an expectation of time spent conducting legislative business. In the Restaurant Association situation, the Board found that the test was met because "the tables are arranged to ensure that local restaurant and tourism entrepreneurs are present at each table, with the expectation that their industry and legislative concerns will be discussed." The Board also noted that a video about the restaurant industry would be shown, which "would seem to support the relationship to the performance of official duties. In this case the official duties include obtaining a better understanding of the industry and its legislative needs and preferences."

In this opinion request, it appears that AT&T Wireless intends to discuss its business and legislative concerns in a formal presentation. There is a clear expectation that the legislative concerns will be further discussed with legislators during the evening.

The unique aspects of the events in AT&T's question permit the Board to advise that the food and beverage portion of the evening is permissible. However, the Board cautions that the "third-party lobbyist" policy which the Board has stated in **Advisory Opinions 1996 - Nos. 1, 2, 8, and 10** are still applicable. Registered lobbyists or lobbyist-employers are not permitted to purchase admission, provide table hosting, or otherwise sponsor the attendance of legislators or legislative staff on a third-party basis.

B. ENTERTAINMENT AND VALUATION

As the Board stated in **Advisory Opinions 1996 - Nos. 10 and 15**, any events which purport to include both an entertainment portion and an official appearance will be closely examined to determine whether the overall character of the event is an entertainment one. As noted above, the Board considers the receptions and dinners in this request to be unique events which are structured to permit a clear separation of the "entertainment" from the reception/dinner portion of the evening. When, as here, the entertainment is a subsequent and separate activity, the gift limitation is applied to the value of the entertainment portion only.

For the Seattle Art Museum event, the value of the "gift" would be the value of admission to the museum exhibit at a similar time of day and day of the week. For the Bellevue Art Museum event, the value would be the cost of the dance admission. If there is no stated cost, then the value can be derived from the total cost of the dance divided by the number of those in attendance.

The Board further notes that it is apparently AT&T's intention to issue invitations to individual legislators which will include a "guest" selected by the legislator. When the invitation is extended in this manner, the legislator is made the recipient of the gift for both persons. If the legislator chooses to bring a guest, the value of the gift is the total entertainment portion for both people.