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BOYCE A. CROCKER

ADVISORY OPINION 01-23

June 22, 2001

RE: May the Department of Housing, Buildings, and Construction accept booth space for the purpose of dissemination of information?

DECISION: Yes.

This opinion is in response to your June 8, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 22, 2001, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Petroleum Marketers Association (the "KPMA") and the Kentucky Grocers Association jointly are hosting a trade show July 14-15 at the Kentucky International Convention Center. The KPMA has invited state agencies with which KPMA members routinely interact to set-up booths for the purposes of distributing educational materials and answering questions. The booth space offered is free, and it is in an area of the trade show that will not be sold.

The State Fire Marshal's Office within the Department of Housing, Buildings, and Construction (the "Department") has participated in the trade show in previous years and the information they have made available has been extremely helpful to KPMA members and marketers. It has also enabled KPMA members to talk directly with staff on issues related to the State Fire Marshal's Office. You ask whether the Department may participate in the trade show and accept the free booth space from the KPMA.

KRS 11A.045(1)(a) provides:

(1)(a) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar

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year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

KRS 11A.010(5) defines "gift" as:

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

It appears to the Commission that the KPMA is requesting the Department to use the booth space offered in order to provide an informational service to its members. It does not appear the booth space offered to the Department is a "gift" as defined in KRS 11A.010(5) above. Thus, although the members of KPMA are most likely regulated by the Department, the Commission does not believe that the acceptance of booth space from KPMA for the dissemination of agency information by the Department creates a conflict of interest for the Department, provided such booth space is offered to any state agency that wishes to participate.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.