

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 02-58

December 13, 2002

- RE: (1) May a non-profit entity contribute in the form of a hospitality room or money to defray expenses for a training conference for victim's advocates being put on by the Office of the Attorney General?
- (2) May the national president of a non-profit victims advocate group set up a table at the conference to sell merchandise?
- DECISION: (1) Yes, within limitations.
- (2) Yes.

This opinion is in response to your November 21, 2002 request for an opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 13, 2002, meeting of the Commission and the following opinion is issued.

You state the following relevant facts. The Office of the Attorney General (the "OAG"), Victim's Advocacy Division (the "Division") is putting on a training/conference for victim's advocates from across Kentucky. The Kentucky Voice for Crime Victims (the "KVCV"), which you believe to be a non-profit entity, has indicated it may contribute to the conference expense in the form of money or hosting a hospitality room. You ask if this is prohibited.

Additionally, the Division is exploring the possibility of having the national president of Parents of Murdered Children, Inc., (the "PMC") be a presenter at the conference. You ask if it is allowable for the PMC president to set up a table at the conference to sell merchandise for the benefit of PMC.

KRS 11A.045(1) provides:

- (1) 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

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value greater than twenty-five dollars (\$25) in a single calendar 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.

Additionally, KRS 11A.055 (1)states:

(1) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for a charitable nonprofit organization granted a tax exemption by the Internal Revenue Service under Section 501c of the Internal Revenue Code without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of the charitable organization, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the charitable organization.

The Commission has held, most recently in Advisory Opinion 02-48 (a copy of which is enclosed), that KRS 11A.045(1) also applies to executive branch agencies and thus the Division should not accept gifts with a value of greater than \$25 or above from any person or business that does business with, is regulated by, or in some way seeks to influence the OAG , or from any group or association which has as its primary purpose the representation of such persons or businesses. Assuming that no vendor of, or entity regulated by, the OAG has control of or participates in the management of KVCV, the Commission believes the OAG may accept the KVCV's offer to contribute to the Conference. If, however, the KVCV is attempting to influence the OAG in any way, the Division should not allow the KVCV to contribute to the conference expense.

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The Commission assumes that this conference will not be held on state property. Advisory Opinion 02-22 (a copy of which is enclosed) prohibits state agencies from allowing private entities to fund-raise on state property unless they are authorized by statute, such as charitable organizations authorized in 101 KAR 2:095, or unless they have a contract with the state to provide such services.

However, in this situation, if the PMC is a charitable non-profit entity granted a tax exemption by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, then the OAG may allow the organization to sell said merchandise at the conference, even if the conference is on state property. Such fund-raising would be an allowable exception under KRS 11A.055(1).

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Cynthia C. Stone, Esq.

Enclosure: Advisory Opinion 02-48
Advisory Opinion 02-22