

ADVISORY OPINION 98-7

February 26, 1998

RE: May employee accept television set won in random drawing from the Kentucky Crushed Stone Association?

DECISION: No

This opinion is in response to your December 16 and January 28, 1998, requests for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 26, 1998, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Crushed Stone Association (the "Association") is a 100-member trade association based in Frankfort. The Association's mission is to advance the responsible management and utilization of Kentucky's aggregate resources in a manner which preserves the natural and social environments while maintaining a viable and competitive industry that benefits the Association members and all the citizens of the Commonwealth.

Several years ago, the Association initiated "Get Acquainted Meetings" in the twelve highway districts across the state. The Association hosts these meetings once every two years in each district for everyone that has an interest in the aggregates industry, including Association members, Transportation Cabinet personnel selected by the chief district engineer, county judge executives, county road supervisors, mayors, federal employees, and Department for Surface Mining Reclamation & Enforcement personnel. In previous years, these meetings involved selection of issues for discussion by participants and brainstorming possible solutions. This past year a trainer was used at the meetings to enhance the communication skills of the attendees.

In order to maintain the information gathering effort, you devised a "win a color TV program" which requires entrants to submit topics and solutions in order to be eligible to win a color television set. This program was initiated so you could continue to provide the opportunity for attendees to share issues, concerns and problems. All information gathered is shared with the Transportation Cabinet for their use and consideration. The winner of the television set is selected by a random drawing of all submitted entries.

This past year, the winner of the color television set, a Transportation Cabinet district employee, advised you that he was not allowed to accept the television under current ethical guidelines. You submit that the most important objective of the "Get Acquainted Meetings" is to provide a setting where you can exchange information that benefits all citizens of the Commonwealth. You fail to see why the acceptance of the television set by an employee is not permissible and hope the Commission will allow this practice to be acceptable.

The Commission takes note that the entities represented by Association are stone

producers or suppliers that seek to do business with the Transportation Cabinet. Accordingly, the Commission views this in light of KRS 11A.005(1) which states in part:

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

(a) A public servant be independent and impartial;

...

(c) A public servant not use public office to obtain private benefits; and

(d) The public has confidence in the integrity of its government and public servants.

Additionally KRS 11A.020(1)(c) provides:

(1) No public servant, by himself or through others, shall knowingly:

...

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family;

The acceptance of a television set from the Association may appear to be a conflict of interest for a state employee who is employed by an agency that does business with crushed stone producers. The Commission believes that state employees involved in doing business with crushed stone producers should not accept gratuities from the association that represents those producers, unless the gratuity is an exception listed in Advisory Opinion 93-81 or 94-63 (copies of which are enclosed).

Although the Commission encourages the exchange of information which benefits all citizens of the Commonwealth, it believes that such sharing can be accomplished without the offering of gratuities to state employees.

Enclosures: AO 93-81
AO 94-63