



COMMONWEALTH OF KENTUCKY

EXECUTIVE BRANCH ETHICS COMMISSION

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Executive Branch Ethics Commission
ADVISORY OPINION 16-10
November 14, 2016

GIFTS EXCEPTION NO. 2016-4

RE: May the Governor accept box seats and passes to Keeneland Racetrack for official use during the Keeneland meets?

DECISION: Yes.

This opinion is issued in response to your October 7, 2016 request for an exemption to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission") on behalf of the Governor. This matter was reviewed at the November 14, 2016 meeting of the Commission and the following opinion/exemption is issued.

You state the relevant facts as follows: Keeneland is regulated by the Kentucky Horse Racing Authority, which is regulated by the Kentucky Horse Racing Authority over which the Governor has direct involvement. Keeneland has offered the Governor a six (6) person box for use at Keeneland's fall race meet.

In 2004, the Commission's authorized an exemption to KRS 11A.045(1) for the Governor in a similar scenario contained in Advisory Opinion 04-26. In that opinion, the Commission granted an exception to the gifts prohibition to allow the Governor and the Lt. Governor to accept 12 box seats as well as 12 walk-around passes to the Kentucky Oaks and the Kentucky Derby at Churchill Downs despite the facts that Churchill Downs is regulated by the Kentucky Horse Racing Authority and Churchill Downs employs registered lobbyists to influence the Governor.

The Commission granted the exception for the seats and passes to Churchill Downs because the Commission believed that "if it is necessary for an elected official to attend an event as part of his [or her] official duty for the commonwealth, the elected official should be allowed to accept the cost of admittance to the event." See AO 04-26 at page two.

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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 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.

You request for the Commission to issue a gift exemption on the Governor's behalf to allow the Governor use of the six (6) person box at the Keeneland fall meet. You state that the Governor would make use of the box for state business development purposes.

Based on the language in KRS 11A.045, ordinarily the Governor would be prohibited from accepting gifts with a value of over \$25 from any person or business doing business with, regulated by, seeking grants from, involved in litigation against, or lobbying or attempting to influence the actions of your agency. Nevertheless, the Commission has granted exemptions to the gifts prohibition where such exemptions would not create an appearance of impropriety. See Gift Exceptions 2007-2, 2005-3, 2002-01, and 2002-01. In Advisory Opinion, 04-26, the Commission stated that because the Governor and the Lt. Governor represent the Commonwealth at event, then they may accept free admittance to such events.

As such, the Commission grants an exception, pursuant to KRS 11A.045(1), for the Governor to accept the use of the six (6) box seats for the Keeneland meets as long as the seats are only used for official purposes for the Office of the Governor.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION



By Chair: W. David Denton

Attachments: Advisory Opinion 04-26