COMMONWEALTH OF KENTUCKY

EXECUTIVE BRANCH ETHICS COMMISSION

http://ethics.ky.gov/

GWEN R. PINSON
CHAIR

RONALD L. GREEN
VICE-CHAIR

NICK CAMBRON

ANGELA LOGAN EDWARDS

JEANIE OWEN MILLER

JOHN R. STEFFEN
EXECUTIVE DIRECTOR

#3 FOUNTAIN PLACE
FRANKFORT, KY 40601
(502) 564-7954
FAX: (502) 564-2686

DANA COX NICKLES
GENERAL COUNSEL

Executive Branch Ethics Commission
ADVISORY OPINION 09-15

GIFTS EXCEPTION NO. 2009-2

RE: May the daughter of the Secretary of the Finance and Administration Cabinet accept bat mitzvah gifts from persons or businesses that do business with, are regulated by, are seeking grants from, are involved in litigation against, or are lobbying or attempting to influence the Finance and Administration Cabinet?

DECISION: Yes, provided the gifts are reasonable in value.

This opinion is issued in response to your March 11, 2009 request for an exemption to KRS 11A.045 (1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 27, 2009 meeting of the Commission and the following opinion/exemption is issued.

You state the relevant facts as follows. The Secretary of the Finance and Administration Cabinet ("Finance") and his wife are hosting a bat mitzvah for their daughter on May 9, 2009. You indicate that as with weddings, it is common for those in attendance to give the bat mitzvah celebrant a gift to commemorate the occasion. It is possible that some of the persons attending may do business with or may be regulated by Finance.

You correctly indicate that the Commission has granted exceptions in similar situations in the past as long as the gifts are reasonable in value, and ask that such an exception be granted in this instance as well.

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.

Additionally, KRS 11A.050(3)(k) provides:

(3) The statement shall include the following information for the preceding calendar year:

...

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars ($200) from any one (1) source to the filer, his spouse, or dependent children, except those from a member of the filer's family;

Based on the language above, the daughter of the Secretary of Finance is 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 Secretary's official actions or the actions of his state agency (Finance) or any other agency over which he would have authority to supervise.

However, the Secretary's daughter is not prohibited from accepting gifts from persons or businesses that do business with, are regulated by, are seeking grants from, are involved in litigation against, or are lobbying or attempting to influence the actions of state agencies for which her father does not work or have supervisory authority.

Additionally, the Commission grants an exception, pursuant to KRS 11A.045(1), for the Secretary's daughter to accept customary bat mitzvah gifts from persons or businesses that do business with, are regulated by, are seeking grants from, are involved in litigation against, or are lobbying or attempting to influence the Secretary's official actions or the actions of his state agency (Finance) or any other agency over which he has authority to supervise, assuming that such gifts will be reasonable in value as appropriate for the occasion.

The Commission does not have the authority to exempt the Secretary from the reporting requirements in KRS 11A.050. Thus, the Secretary must report on his Statement of Financial Disclosure any gift his daughter receives if it has a value of more than $200 and it is not from a family member.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

Gwen R. Pinson

By Chair: Gwen R. Pinson