COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
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Executive Branch Ethics Commission
ADVISORY OPINION 09-26
September 18, 2009

GIFTS EXCEPTION NO. 2009-4

RE: May a member of the Governor's executive staff accept wedding 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 Office of the Governor?

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

This opinion is issued in response to your August 29, 2009 request for an exemption to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission") on behalf of a member of Governor Beshear's executive staff who serves as a senior policy advisor. This matter was reviewed at the September 18, 2009 meeting of the Commission and the following opinion/exemption is issued.

You state the relevant facts as follows. A member of the Governor's executive staff plans to wed this fall. It is anticipated that she may receive customary wedding gifts from family members, friends, and other guests. You state that while it is not anticipated, it is possible that some of the gifts may be from persons or businesses that do business with or are regulated by the Commonwealth. You are therefore, in an abundance of caution, asking the Commission to issue an exemption pursuant to KRS 11A.045(1) granting the staff person authorization to accept such wedding gifts.

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.

Based on the language above, the staff person 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 actions of her state agency (Office of the Governor) or any other agency over which she would have authority to supervise, if any. However, she 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 are attempting to influence the actions of state agencies for which she does not work or have supervisory authority.

Additionally, the Commission grants an exception, pursuant to KRS 11A.045(1), for the staff person to accept customary wedding 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 the Office of the Governor, provided such gifts are reasonable in value.

Should this staff person be required to file an annual Statement of Financial Disclosure with the Commission, this exception does not affect her requirement under KRS 11A.050 to report any gift she or her spouse 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