

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 02-32**

June 28, 2002

RE: May state employees accept door prize at annual convention?

DECISION: No, because door prize is not available to the public.

This opinion is in response to your June 7, 2002, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 28, 2002 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. A vendor of the Department of Public Advocacy (the "Department") has offered to sponsor a drawing for a palm pilot at the Department's annual convention. The vendor will also provide training at the convention and display a booth with various publications. The convention is open to employees and non-employee criminal defense professionals. You ask the following:

1. *Under the current ethics rules, door prizes are an exception to the general gift rules. Does this palm pilot qualify as a door prize?*
2. *Even if it qualifies as a door prize, is the conference considered to be open to the public as required by the ethics rules?*
3. *If allowed to have the drawing, should any employees of the agency be prohibited from entering to prevent questions of impropriety?*

KRS 11A.045 provides:

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

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 02-32**

June 28, 2002

Page Two

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, "gift" is defined in KRS 11A.010(5) as the following:

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

A drawing held by a vendor to give away a palm pilot at an annual convention of a state agency would be considered a door prize. However, because the convention, and thus the drawing for the door prize, is not open to the public, but is limited to those attending the convention, the Commission does not believe the drawing is within the door prize exception provided in the definition of gift above.

Thus, although the vendor is not prohibited from holding the drawing for the door prize, employees of the Department may not accept the door prize from the vendor if the value of the door prize exceeds \$25. The Commission believes that a door prize given by vendor at a convention attended predominantly by employees of the Department and accepted by an employee would give the appearance of impropriety in decision-making by the Department regarding the vendor.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Cynthia C. Stone, Esq.