

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 05-12

March 30, 2005

AUTHORIZATION FOR EXCEPTION TO KRS 11A.045(1)

EXCEPTION NO. 2005-1

RE: May the Governor's Senior Advisor accept wedding gifts from persons or businesses that may do business with or be regulated by the Office of the Governor, or may be attempting to influence his official actions?

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

This opinion is issued in response to your February 18, 2005 request for an exemption to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 30, 2005 meeting of the Commission and the following opinion/exemption is issued.

You state the relevant facts as follows. The Governor's former Chief of Staff who now serves as a Senior Advisor to the Governor ("Senior Advisor") plans to wed on April 8, 2005. It is anticipated that he and his fiancée will receive customary wedding gifts from family members, friends, and wedding guests. It is possible that some of the gifts received by the couple may be from persons or businesses that do business with or are regulated by the Commonwealth.

Based on a review of the statutory provisions, you do not believe that the Senior Advisor's acceptance of wedding gifts would create an appearance of impropriety as envisioned by KRS Chapter 11A. You request the Commission to issue an exemption granting the Senior Advisor authorization to accept wedding gifts under KRS 11A.045. You further request an exemption of the reporting of such gifts under KRS 11A.050.

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 Senior Advisor is prohibited from accepting gifts with a value of over \$25 from any person or business doing business with, regulated by, or attempting to influence his official actions or the actions of his state agency (Office of the Governor) or any other agency over which he would have authority to supervise.

However, the Senior Advisor is not prohibited from accepting gifts from persons or businesses that do business with, are regulated by, or are attempting to influence the actions of state agencies for which he doesn't work or have supervisory authority.

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 05-12 (EXCEPTION 2005-1)
March 30, 2005
Page Three

Additionally, the Commission grants an exception, pursuant to KRS 11A.045(1), for the Senior Advisor to accept customary wedding gifts from persons or businesses that may do business with, be regulated by, or be attempting to influence his official actions or the actions of his state agency (Office of the Governor), provided such gifts are reasonable in value.

The Commission does not have the authority to exempt the Senior Advisor from reporting requirements in KRS 11A.050. Thus, the Senior Advisor must report any gift he or his spouse receives if it has a value of more than \$200 and it is not from a family member.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: James S. Willhite