

ADVISORY OPINION NO. 93-44

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 2, 1993

GOVERNMENTAL OFFICIAL SEEKING OPINION

A State Legislator

OPINION SOUGHT

Is it a violation of the Ethics Act for a State Legislator to accept a complimentary trade magazine subscription?

FACTS RELIED UPON BY THE COMMISSION

Since being elected, the Legislator has received publications from various organizations. The annual subscription price for some of these trade magazines is over \$25.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-5(c)(1) states in pertinent part that...no official...may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

- (A) Is doing or seeking to do business of any kind with his or her agency;
- (B) Is engaged in activities which are regulated or controlled by his or her agency; or
- (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

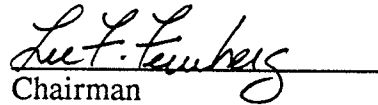
West Virginia Code §6B-2-5(c)(2) states in pertinent part that...Notwithstanding the provisions of subdivision (1) of this subsection, a person who is a public official...may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. The provisions of subdivision (1) of this subsection do not apply to:

- (C) Unsolicited gifts of nominal value or trivial items of informational value;...

ADVISORY OPINION

Pursuant to WV Code §6-2-5(c)(1) a public official may not accept gifts from lobbyists, vendors, persons who are regulated by his governmental agency, or any person who has a financial interest in how the public official performs his public duties. However, WV Code §6B-2-5(c)(2) establishes certain exemptions from the prohibition against accepting gifts. One exemption includes trivial items which are of informational value. The Commission has determined that subscriptions to trade magazines would fall within this category.

Therefore, it would not be a violation of WV Code §6B-2-5(c)(1) for the State Delegate to accept a complimentary subscription to a trade magazine.


Chairman