

**ADVISORY OPINION NO. 95-05**

**ISSUED BY THE**

**WEST VIRGINIA ETHICS COMMISSION**

**ON MARCH 2, 1995**

**GOVERNMENTAL BODY SEEKING OPINION**

A State Official

**OPINION SOUGHT**

Is it a violation of the Ethics Act for a State official to provide a letter of introduction to a publishing company for the purpose of encouraging State businesses and corporations to purchase a profile in a book which will discuss and detail the culture of the State?

**FACTS RELIED UPON BY THE COMMISSION**

An opportunity has arisen for the State of West Virginia to publish a hard-cover "coffee table" book that will discuss and detail the culture of the State. The State's Division of Culture and History would contract with a Company for publication of the book. Five thousand copies of the book are intended to be published. The State, through the Division of Culture and History, will receive 3,000 copies of the publication for its distribution and marketing.

The Company is totally responsible for any and all expenses and costs incurred in publishing the book. The Company will also reimburse the Division of Culture and History for costs incurred by the Division in doing the necessary research on the subject of the book. Finally, the Company will directly pay the Division for the right to publish the book.

The book will be approximately 256 pages in length. Of those pages, 150 will be devoted to the historical and cultural detail of the State. The remaining pages will be devoted to "historical corporate profiles". The Company will solicit corporations or other private businesses for the purchase of a profile in the book and will retain all payments arising from such purchases. It is anticipated that the requester or another public official will provide the Company with a letter of introduction in which the project will be outlined and in which the solicited corporations will be encouraged to participate in the project.

## PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-5(b)(1) states in pertinent part that...a public official...may not knowingly and intentionally use his office or the prestige of his...office for his...own private gain or that of another person. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

## ADVISORY OPINION

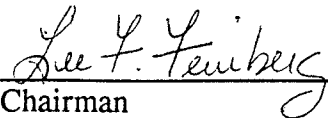
Pursuant to WV Code §6B-2-5(b)(1) it is a violation of the Ethics Act for public officials or public employees to use their office or the prestige of their office for their own private gain or for the private gain of another. However, the performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

As previously noted, a State official would be likely to provide a letter of introduction to the publishing company. The purpose of the letter is to solicit State businesses and corporations to participate in a project by encouraging them to purchase a profile in the book which will discuss and detail the culture of the State.

In considering this specific request the Commission must examine the potential benefit to all parties involved. Clearly, no personal gain or benefit will accrue to any public official for providing the letter of introduction to the Company. The State of West Virginia would receive 3,000 copies of the book for marketing and distribution. The book will serve as a tool to educate the general public about the history and culture of the State and may serve as a resource to promote and increase economic development in the State.

The determination of whether this project will benefit the State is an issue for the Executive Branch to resolve. It is apparent that the decision to enter into this contract reflects a decision that the project will advance legitimate public policy goals. As stated in the request for the advisory opinion, this project will help educate the general public about the history and culture of the state and provide an important informational resource for promoting economic development.

Therefore, it would not be a violation of WV Code §6B-2-5(b)(1) for any State official to provide a letter of introduction to a publishing company for the purpose of encouraging State businesses and corporations to purchase a profile in the book since the purpose of the letter is the advancement of public policy goals through the performance of usual and customary duties.

  
Chairman