



April 21, 2008

ADVISORY OPINION 08-02

Interpretation of T.C.A. § 3-6-301(8) with respect to acceptance of an award, reimbursement of expenses and an honorarium from a national professional organization

INTRODUCTION

The following Advisory Opinion is in response to a written inquiry from Representative David Shepard.

QUESTION

Representative Shepard poses the following question: Does the Ethics Reform Act (the “Act”) permit an official in the legislative branch to accept an award and reimbursement of expenses from a national organization whose Tennessee affiliate, which is a separate legal entity, is an employer of a lobbyist?

BACKGROUND

Representative Shepard has been a practicing pharmacist in Tennessee for over 20 years. He is a member of both the American Pharmacists Association (“American Association”) and the Tennessee Pharmacists Association (“Tennessee Association”). He has been invited to receive the American Association’s Hubert H. Humphrey Award at its 2008 Annual Meeting in San Diego, California on March 14-17, 2008. The Award was established in 1978 to recognize members of the American Association who have made contributions in government or for legislative service.

The American Association would bear the cost of air travel, accommodations, the registration fee for the Annual Meeting, and an honorarium.

The American Association is a separate legal entity from the Tennessee Association. The Tennessee Association is an employer of a lobbyist in Tennessee. The American Association does not employ a lobbyist in Tennessee.

ANSWER

Yes. The Act permits Representative Shepard to accept this award, reimbursement of expenses and honorarium because the American Pharmacists Association is not an employer of a lobbyist under Tenn. Code Ann. § 3-6-301(8).

DISCUSSION

Tenn. Code Ann. § 3-6-305(a) generally prohibits an employer of a lobbyist from providing gifts to officials in the legislative branch, and prohibits officials in the legislative branch from soliciting or accepting gifts from employers of lobbyists.

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Representative Shepard is an official in the legislative branch as defined in Tenn. Code Ann. § 3-6-301(19).

However, the American Association is not within the definition of “employer of a lobbyist” in Tenn. Code Ann. § 3-6-301(8). As in Advisory Opinion 07-01, the existence of an affiliation between these two entities, one of which is an employer of a lobbyist and one of which is not, does not derivatively convert the latter entity into an employer of a lobbyist.

Accordingly, the Act’s ban on accepting gifts from employers of lobbyists does not prohibit Representative Shepard from accepting the items described in the facts presented to the Commission.

Therefore, it is not necessary for the Commission to address the question of whether the items which the American Association will provide to Representative Shepard are within the exceptions to the gift ban that are listed in Tenn. Code Ann. § 3-6-305(b).

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