

May 30, 2001

Roger Martin
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P.O. Box 588
Lake Oswego, Oregon 97034-0288

Dear Mr. Martin:

This is in response to your correspondence dated May 22, 2001 regarding lobbyists honoring the service of term limited Senators, with a commemorative gift and dinner.

OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION
STAFF OPINION NO. 01S-012

STATED FACTS: Ten term limited senators were honored at an event sponsored by 65 lobbyists. The purpose was to honor and demonstrate the common appreciation the lobbyists held for the careers of these senators.

The event was a dinner attended by approximately 133 lobbyists and 53 members of the legislature. The price for each dinner was \$31.76, with each of the 65 sponsoring lobbyists paying a portion of the cost valued at 49 cents for each meal provided to each of the 53 legislators. The total cost paid by each sponsoring lobbyist for meals was approximately \$26.00.

The 10 honorees were each presented with a commemorative clock valued at \$260.00. Each of the 65 lobbyists paid a portion of the cost valued at \$4.00 for each of the 10 honored senators. The total cost paid by each sponsoring lobbyist for clocks was \$40.00.

RELEVANT STATUTES: The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

171.745(1) **Statements of lobbying expenses required; contents; time of filing.** (1) Any lobbyist who engages in any lobbying activities shall file with the Oregon Government Standards and Practices Commission, on January 31 and July 31, of each even-numbered year, and on January 31, April 30 and July 31 of each odd-numbered year, a statement showing:

171.745(1)(b) The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure in excess of \$25 is made for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.

171.745(2) Beginning on July 1, 1979, the dollar amount specified in subsection (1)(b) of this section shall be adjusted annually by the commission based upon the change in the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest dollar.

244.020(8) " Gift means something of economic value given to a public official or the public official's relative without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives of public officials on the same terms and conditions; and something of economic value given to a public official or the public official's relative for valuable consideration less than that required from others who are not public officials. However, gift does not mean:

244.020(8)(d) The giving or receiving of food or beverage if the food or beverage is consumed by the public official or the public official s relatives in the presence of the purchaser or provider thereof.

244.040 **Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

244.040(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or **an unsolicited award for professional achievement** for the public official or the public official s relative, or for any business with which

the public official or a relative of the public official is associated.
(Emphasis added.)

QUESTION NO. 1: What reporting requirement do the 10 senators have for receipt of the commemorative clocks?

OPINION: None. Neither awards nor gifts are required to be reported by public officials.

QUESTION NO. 2: What reporting requirement do the senators and representatives have in regard to the dinner they received?

OPINION: None. Public officials are not required to report the cost of food and beverage consumed in the presence of the purchaser or provider.

QUESTION NO. 3: Do the 65 lobbyists have any reporting requirements for the presentation of the commemorative clocks or the dinners provided?

OPINION: Yes. Lobbyists must file periodic expenditure reports with the Government Standards and Practices Commission. One of the categories of reportable expenses is food and refreshment. The \$26.00 each lobbyist paid for food and refreshment for this event should be included in their expenditure report for the relevant reporting period. The \$40.00 paid by each lobbyist for the commemorative clocks should be reported in the miscellaneous category. It is not necessary for the lobbyists to list the names of each recipient legislator because the amounts expended are below the dollar threshold established by ORS 171.745(1)(b) and ORS 171.745(2).

If expenses were reimbursed to the lobbyist by the entity they represent the expenses would be reported in the entity expense report and not by the lobbyist.

QUESTION NO. 4: Do the entities represented by the 65 lobbyists have any reporting requirements from this event?

OPINION: Perhaps. In the stated facts there is no mention of any entity involvement. However, if the entity reimbursed their lobbyist(s) for any expense incurred, the entity would report the amount on its annual expense report filed with the Government Standards and Practices Commission. The lobbyist would not report the expense.

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THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON STANDARDS AND PRACTICES COMMISSION.

Do not hesitate to call or write if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

01S-012/dc