

March 12, 2002

Elizabeth Thornton  
Director of Marketing  
Restaurant Concepts II, LLC  
400 Interstate North Parkway, Suite 1200  
Atlanta, Georgia 30339

Via Fax and Regular Mail

Dear Ms. Thornton:

This letter is in response to your correspondence dated March 12, 2002 concerning Applebee's and KUPL radio's co-sponsorship of "Fireman Fridays" program in the Portland area.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF  
OPINION 02S-010**

STATED FACTS: The Applebee's restaurant chain is committed to finding ways to get involved in their local neighborhoods and give back to the communities that support them. This is part of their corporate core values.

With the "Fireman Fridays" promotion, they are seeking to recognize firefighters and their individual fire stations for their good deeds or outstanding achievements. Nominations will be submitted by KUPL listeners via e-mail, fax or mail, outlining what that particular firefighter or firehouse has done to deserve this recognition. KUPL will choose and announce a winning firehouse every other week. Applebee's and KUPL will deliver a free lunch to that station that Friday.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(15) "Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

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.”

QUESTION: Would it be a violation of Oregon Government Standards and Practices law for the personnel of a particular fire station to receive a free lunch from Applebee's and KUPL under the guidelines set out in the stated facts?

OPINION: The provisions of ORS 244.040(1)(a) clearly state that public officials may not use their official position to obtain financial gain or avoid financial detriment if such financial gain is available only because the public official holds the position or office.

There is a provision in ORS 244.040(1)(a) that allows public officials to receive official salary, honoraria, reimbursement of expenses and unsolicited awards for professional achievement.

The stated facts indicate that nominations for this award will be submitted by KUPL listeners outlining what that particular firefighter or firehouse has done to deserve this recognition.

It appears the recognition and free lunch would be an unsolicited award based on nominations from the general public for outstanding achievements by a firefighter or members of a firehouse. Accordingly, it appears that this would be “an unsolicited award for professional achievement...” pursuant to ORS 244.040(1)(a) and would not violate the provisions of Oregon Government Standards and Practices law.

**THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 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**

Elizabeth Thornton

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**ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT  
STANDARDS AND PRACTICES COMMISSION.**

Please contact this office again if you would like this opinion submitted to the Oregon Government Standards and Practices Commission (GSPC) for adoption as a formal advisory opinion pursuant to ORS 244.280.

Sincerely,

L. Patrick Hearn  
Executive Director

c: Chief Jeff Johnson, President  
Oregon Fire Chiefs Association

02S-010-c11-15-JP