

SUBJECT: COUNTY MANAGER ATTENDING BUSINESS COMMUNICATIONS  
RECEPTION

SUMMARY:

A County Manager and Council Members would not be prohibited from attending a reception as guests of a telephone company.

QUESTION:

The County Manager for Greenwood County questions whether he and County Council Members may attend a business communications reception for corporate customers of United Telephone System. There will be heavy hors d'oeuvres and cocktails as well as small gifts and door prizes.

DISCUSSION:

This opinion is rendered in response to a letter dated March 2, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In Advisory Opinion SEC AO92-039, the State Ethics Commission called attention to Section 8-13-710(B) which provides:

(B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

(1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's, or public employee's office or position;

(2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:

(a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.

(b) conducts operations or activities which are regulated by the public official's, public member's or public employee's governmental entity.

Section 8-13-705(b) provides:

(B) A public official, public member, or public employee may not, directly or

indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;
- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
- (3) induced to perform or fail to perform an act in violation of his official responsibilities.

In Advisory Opinion SEC AO92-032, the State Ethics Commission advised:

Acceptance of anything of value from a regulated association is not a per se violation of the Ethics Reform Act. In accordance with Section 8-13-710(B), the acceptance of anything of value given by a person whose activities are regulated by the recipient's agency is to be reported on the Statement of Economic Interests if it exceeds \$25 per or \$200 in a calendar year. Whether acceptance of such thing of value is a violation of Section 8-13-705 would depend on the circumstances of such offer or receipt of the thing of value.

The provision of a reception including hors d'oeuvres and cocktails by a vendor to all participants would not violate the provisions of the Ethics Reform Act unless given to influence the recipient.

If this involves a lobbyist principal, the Secretary of State's Office should be contacted.