

Gifts
Charter Section 2604(b)(3)

Advisory Opinion No. 94-12

A high-level public servant has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, he may accept a ceremonial sword presented to him from a restaurant and entertainment center (the "Firm"), located outside of the City, which has a sales and information center in Manhattan. For the reasons discussed below, the Board has determined that the public servant may not keep the sword and must return it to the donor Firm.

Background

The public servant has advised the Board that, when the Firm opened its sales and information center

in Manhattan, the public servant participated in the ribbon cutting ceremony as a representative of the City; that shortly after the ceremony, a representative from the Company came to the public servant's agency and presented him with a ceremonial sword on which his name was engraved; and that the value of the sword is \$290.00. The public servant has also advised the Board that he believed it would have been inappropriate for him to have refused acceptance of the sword and that he has mounted the sword in his City office.

Discussion

Chapter 68 provides that no public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. See Charter Section 2604(b)(3).

Acceptance of the sword, which was presented to the public servant after he had performed his official

City duties, could create the appearance that the public servant used his official position for private gain, inasmuch as it was only because of his status as a public servant that he was offered this valuable gift. See Charter Section 2604(b)(3). The nature of the gift is such that it could not be of any practical use to the City and thus could not be accepted as a gift to the City. See Advisory Opinion No. 94-4, in which the Board determined that a public servant could accept a notebook computer as a gift to the City. In that case, the Board noted that the nature of the gift was such that it would be of general use to the City.

The Board notes that there may be occasions where it would be impracticable to return gifts to donors. For example, it is often the custom for foreign dignitaries to present gifts to City officials who act as their hosts when they visit the City. In such cases, it may be impracticable for City officials to refuse acceptance of these gifts. In this case, however, the circumstances described above mandate that the public servant return the gift to the donor Firm.

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Conclusion

The Board has determined that, under the particular circumstances of this case, the public servant may not keep the ceremonial sword but must return it to the donor Firm.

Sheldon Oliensis
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: May 16, 1994