

Use of Official Position
Charter Section 2604(b)(3)

Advisory Opinion No. 95-5

The Conflicts of Interest Board (the "Board") has received a request for an opinion from a public servant as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, a fraternal association (the "Association"), of which he is a member by virtue of his particular position with the City, may approach various business owners in the metropolitan area for the purpose of soliciting discount rates for the Association's members. For the reasons set forth below, it is the Board's opinion that the Association's proposed activity would violate Chapter 68.

Background

The public servant, who serves as an officer of the Association, has advised the Board that the Association is a not-for-profit fraternal association whose members are employees of the City agency which he serves. The public servant wishes to approach local merchants to solicit discounts for the Association's members based on, in the public servant's words, "the potential of [several hundred Association] members patronizing a particular business."

Discussion

The Association's active solicitation of discounts from businesses located throughout the metropolitan area would mean that the members of the Association, who are City employees, were using their City positions to obtain special discounts which were not available to non-City employees. In other words, the public servants who are members of the Association would use their City positions to advance their private interests. This would be inconsistent with Charter Section 2604(b)(3), which provides, in pertinent part, that no public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

The Association's membership consists solely of City employees from a particular agency. If not for these public servants' City employment, they would not be eligible to be members of the Association. Thus, if the Association obtained discounts for its members, these private benefits would be available to these members only because of their status as City

employees.

Conclusion

It is the opinion of the Board that the Association's proposed solicitation of discounts from businesses would violate Charter Section 2604(b)(3), inasmuch as such solicitation would constitute the improper use by the public servants of their official City positions for personal or private gains.¹

Sheldon Oliensis
Chair

Beryl R. Jones

Jane W. Parver

Benito Romano

Shirley Adelson Siegel

Dated: February 27, 1995

¹ The Association members' solicitation activities might also be a violation of Charter Section 2604(b)(5), which provides that no public servant shall accept any valuable gift from any person or firm which is or intends to become engaged in business dealings with the City, and the Board's gift rule, depending on whether the participating businesses engaged in business dealings with the City and whether the discounts exceeded \$50 in value. See Board Rules Section 1-01.