

Acceptance of Award

Charter Sections 2604(b)(2), (3), (5) and (13)

Advisory Opinion No. 95-28

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, he may accept an unsolicited award of a watch, given to him by a private watch company in recognition of an act of heroism he performed in the course of his official duties. For the reasons discussed in this opinion, the Board has determined that the public servant may accept the award.

Background

The public servant's official duties consist of providing medical services to the City's residents. In the course of performing his official duties, the

public servant exhibited exceptional bravery by saving the lives of four individuals. Officials of a private watch company (the "Company") read about this act of heroism and decided to award a watch valued at approximately \$300 to the public servant. The public servant had no prior contact or other relationship with the Company. Furthermore, the Company has no business dealings with the City.

Discussion

The Board frequently receives requests from public servants regarding their acceptance of gifts or awards from private organizations. In many cases, gifts are offered to City employees by firms which have or seek to engage in business dealings with the City. With limited exceptions, listed in the Board's Valuable Gift Rule, City employees are generally prohibited from accepting gifts valued at \$50 or more, and awards valued at \$150 or more, from firms which have business dealings with the City. See Charter Section 2604(b)(5). However, in cases such as the instant one, where the gift or award is being offered by a firm which has no business dealings with the City, and which has no expectation of seeking such dealings, the

specific circumstances of the offer must be examined carefully to determine whether the acceptance of the gift or award would give rise to a conflict of interests under any other relevant provisions of Chapter 68.

The Company's decision to award the public servant a watch was made spontaneously after the public servant had performed his act of heroism. Thus, the public servant was in no way influenced by the incentive of an award in performing his official duties. See Charter Section 2604(b)(2), which provides, in relevant part, that no public servant shall have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

The public servant's official duties consist of providing medical services to the City's residents. His assignments are determined by the specific daily needs of the City's population, and priorities are set by his supervisors based on those needs. There is no indication that the public servant would be able to use his position for the private advantage of the Company, which has no business dealings with the City. Acceptance of the award by the public servant thus

would not give rise to an appearance of impropriety under Charter Section 2604(b)(3), which provides, in relevant part, that no public servant shall use or attempt to use his or her official position to obtain a private or personal advantage for the public servant or for any person or firm associated with the public servant.

Finally, Charter Section 2604(b)(13) provides that no public servant shall receive compensation except from the City for performing any official duty from any person whose interests may be affected by the public servant's official action. Since neither the Company nor its officials benefited from the public servant's official actions, the watch would not be considered "compensation" or a "gratuity" in violation of this section.

Conclusion

It is the opinion of the Board that, under the particular circumstances of this case, the public servant may accept the award of a watch from the Company, inasmuch as the Company has no business dealings with the City and has no expectation of seeking such dealings; the acceptance of the award

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would not conflict with the public servant's official duties; the public servant would not be able to use his official position to obtain any private advantage for the Company; and neither the Company nor its officials benefited directly from the public servant's actions. See Charter Sections 2604(b)(2), (3), (5) and (13), respectively.

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Dated: November 27, 1995