

Advisory Opinion No. 90-3

An elected official requested an opinion as to whether, consistent with Chapter 68 of the New York City Charter ("Conflicts of Interest"), the elected official may be a guest of a private philanthropic organization in a visit to a foreign country that will involve a program of briefings by prominent government officials. The trip would otherwise cost \$1600 for lodging and meals, plus a \$500 contribution to the organization.

Charter Section 2604(b)(5) provides that a public servant, which includes an elected official, cannot accept any valuable gift from any firm which such public servant "[k]nows is or intends to become engaged in business dealings with the City...."¹ Although the

¹ Charter Section 2601(8) defines "business dealings with the City" as:

any transaction with the City involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing....

organization partially funds several social service organizations which have contracts with a City agency, the organization does not itself have direct business dealings with the City or any City agency.

It is the opinion of the Board that the organization is not a firm engaged in business dealings with the City and therefore it would not be a violation of Charter Section 2604(b)(5) for the elected official to accept this gift.

The Board is concerned, however, that the elected official's acceptance of such a valuable gift from a private organization when no clear City purpose is involved,² may give rise to an appearance that the gift

² Pursuant to our proposed rule interpreting Charter Section 2604(b)(5), a public servant's acceptance of travel-related expenses from a private entity can be considered a gift to the City, rather than to the public servant, under all of the following conditions:

- (1) the trip is for a City purpose and therefore could properly be paid for with the City funds;
- (2) the travel arrangements are appropriate to that purpose;
- (3) the trip is no longer than reasonably necessary to accomplish the business which is its purpose; and
- (4) to avoid any appearance of impropriety, it is recommended that each such trip by the public servant and acceptance of payment therefore be approved in advance and in writing by the head of the public

was made to lobby or solicit the goodwill of the elected official, in ways not immediately apparent. While the Board recognizes that this practice has gone on in the past, it creates an appearance which we find disturbing.

Merrell E. Clark, Jr.
Chair

Robert J. McGuire

Beryl R. Jones

Dated: April 4, 1990

servant's agency or, if the public servant is an agency head, by a deputy mayor.