

**ETHICS INTERPRETATION EI-1996-004
ISSUED JANUARY 26, 1996**

In the executive session portion of its regular meeting held January 26, 1996, the Ethics Commission considered your request for an ethics interpretation. You have asked:

Do the Constitutional Ethics Rules [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1995, Ch. 62, App.] require a lobbyist to report the face amount of a \$100 per plate ticket to a candidate's fundraiser, given to a state officer as a gift, or may the ticket be reported using the actual cost of the dinner?

FACTS

Your question involves evaluating a gift to a state officer or employee from a registered lobbyist for purposes of lobbyist reporting. You have advised the Commission that a lobbyist wishes to give a state officer a ticket to a \$100 per plate dinner. The event is being held as a fundraiser for a candidate for federal office. The "per head" cost of the event [for food, facility rental and the like] is a fraction of the ticket purchase price. The difference between the ticket price and actual cost goes to fund the candidate's campaign. You have asked whether the lobbyist must report the ticket at its face value of \$100 or whether he can evaluate it at the actual "per head" cost of putting on the event.

ANALYSIS

The Constitutional Ethics Rules [supra] include gifts under the broad heading of "anything of value", which includes:

"Anything of value", "Thing of value" or "Things of value"

(1) These terms, to the extent that consideration of equal or greater value is not received, include the following:

* * *

(G) a gift, tangible good, chattel, or an interest in a gift, tangible good or chattel...

257:1-1-2

[emphasis added]

Similarly, the rules define "gift" as "anything of value" for which consideration of equal or greater value is not received.

"Gift"

means "anything of value", as defined in this section, to the extent that consideration of equal or greater value is not received in exchange therefor.

Reporting of gifts or “anything of value” given to state officers and employees by lobbyists is governed by Section 257:23-1-2 of the constitutional rules, which in applicable part, provides:

Anything of value reporting by lobbyists --Preservation of accounts, books, etc.

* * *

(d) **Contents of reports.** The information to be reported pursuant to the provisions of Subsection (b) of this section shall be as follows:

- (1) The name and position of the state officer or state employee to whom the thing of value was given;
- (2) The date the thing of value was given;
- (3) The nature of the thing of value given;
- (4) *The amount of the expenditure made by the lobbyist or lobbyist principal for the thing of value;*
- (5) The name of the lobbyist principal or lobbyist principals on whose behalf the thing of value was given, if any.

[emphasis added]

The provision requires a lobbyist to report “the amount of the expenditure”. In this case, that amount is presumably the figure set forth on the ticket: to wit: \$100.

It is only when the value is not known or ascertainable that a good faith estimate will suffice. The rules envision that the latter will occur when things of value are given on behalf of the lobbyist or lobbyist principal by others, thereby depriving the filer of the precise information. In such instances, the rules require that the giver(s) supply the filer with this information at least seven days before reports are due. When the value is unknown or not ascertainable, a good faith estimate of fair market value can be reported.

Anything of value reporting by lobbyists --Preservation of accounts, books, etc.

* * *

(g) **Reporting of things of value given on behalf of lobbyist or lobbyist principal.** A lobbyist shall also report things of value when given by other persons on behalf of the lobbyist or the lobbyist principal if they were made with the knowledge of the lobbyist. When other persons, including lobbyist principals, give things of value that the lobbyist is required to report, the other persons shall provide a full, verified account of such things of value to the lobbyist at least seven (7) days before the reports of the lobbyists are due to be filed. *When exact values are not known and not ascertainable, a good faith estimate of the fair market value shall be reported.*

257:23-1-2(g)

[emphasis added]

In the instant situation, the actual value of the ticket is known. The rules contemplate that this figure be reported without reference to any good faith estimates of fair market value. The same result is reached if the fair market value test were applied. These tickets are being sold for \$100 per plate. That is what a willing buyer is paying a willing seller in a willing market; hence, \$100 is the fair market -- as well as the actual -- value. It is this figure which must be reported.

CONCLUSION

It is therefore the ethics interpretation of the Ethics Commission, as decided at its regular meeting held January 26, 1996, that Section 257:23-1-2(d) and Section 257:23-1-2(g) of the Constitutional Ethics Rules [supra] require that a lobbyist report the full face amount of a ticket given to a state officer of a \$100 per plate fundraiser.

Please be advised that law requires that ethics interpretations be published without identifying the requestor.