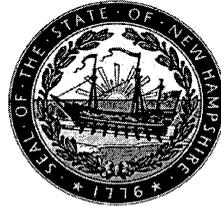


STATE OF NEW HAMPSHIRE
EXECUTIVE BRANCH ETHICS COMMITTEE



33 Capitol Street
Concord, New Hampshire 03301-6397

Advisory Opinion

2013-002

Question Presented

Can a state commissioner accept a complimentary ticket to a charity night preview of the New Hampshire Auto Show, valued at \$75.00, that is offered by the New Hampshire Automotive Education Foundation, a 501(c)(3) charitable organization that is sponsoring the event, without violating the prohibition on gifts under RSA 15-B?

Summary Answer

Yes, such a ticket would fall within the exemption under RSA 15-B:2, V(b)(9)(B).

Legal Authority

RSA 15-B:2; RSA 15-B:3; RSA 21-G:22

Analysis

The New Hampshire Automotive Education Foundation (NHAEF) is a 501(c)(3) charitable organization that provides scholarships to high school students. It is affiliated with, but a separate corporate entity from, the New Hampshire Automobile Dealers Association (NHADA). The NHADA is sponsoring a 3-day automobile show. The night before the opening of the show, NHAEF is sponsoring a Charity Night Preview event, which is open to the public. Tickets cost \$75.00 a piece. The event is a fundraiser for three charities: NHAEF, CASA and Veterans Count. In addition to ticket sales,

money is being raised through sponsorships. After expenses, all proceeds will be split among the charities.

A commissioner of a state agency who was offered a complementary ticket to the charity event by NHAEF has asked whether acceptance of the ticket would violate the Executive Branch Ethics Rules.

RSA 15-B:3, III states that “[n]o elected official, public official, public employee, constitutional official, or legislative employee shall knowingly accept, directly or indirectly, any gift, as defined in this chapter.” The term “gift” is defined under RSA 15-B:2, V(a):

- (1) Money in any amount, whether in the form of cash, check, or any other negotiable or non-negotiable instrumentality for the transfer of money.
- (2) Any other tangible thing, intangible thing, service, or the use thereof, having more than insignificant economic value. Any such item with a value of less than \$25 is presumed to be of insignificant economic value.

RSA 15-B:2, V(b) lists thirteen exceptions to this broad definition of the term gift. If the transaction or item does not fall within one of those exceptions, then it is a gift and the prohibition against the acceptance of gifts would apply.

A ticket to the Charity Night Preview event has a value in excess of \$25.00. Thus, it would constitute a gift, acceptance of which would be a violation of RSA 15-B:3, III, unless the ticket fell within one of the exceptions.

Under RSA 15-B:2, V(b)(9)(B), tickets or free admission to a charitable, ceremonial, or political event are exempted from the gift prohibition, provided that, “[t]he event is sponsored by a charitable organization that is registered with the division of charitable trusts, department of justice, or which is a charitable organization pursuant to section 501(c)(3) of the federal tax code.”

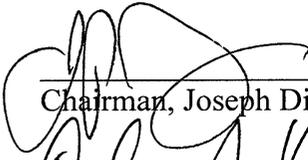
NHEAF, the organization hosting the event, is a 501(c)(3) charitable organization that is registered with the division of charitable trusts at the department of justice. It offered the commissioner a free ticket to a charitable event, the purpose of which is to raise money for itself and two other charities. Given those facts, it is our opinion that the ticket falls within one of the exceptions to the gift statute and the commissioner may accept it without violating RSA 15-B:3, III.

Even if the free ticket is not a prohibited gift, the commissioner should be cautious that attending such an event may create a conflict of interest. A conflict of interest is a “situation, circumstance or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.” RSA 21-G:22, II. Thus, the commissioner should consider whether attendance at the event would create a “private interest” that would interfere with the proper exercise of a public duty.

Conclusion

A commissioner may accept a free ticket to a charity event sponsored by a organization that is registered as a 501(c)(3) charity, provided that attendance at such an event will not create a conflict of interest.

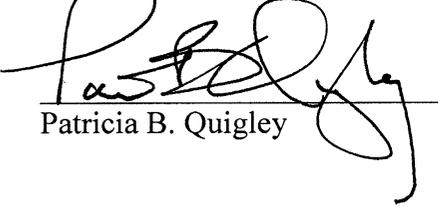
This Advisory Opinion is issued by the Executive Branch Ethics Committee on November 6, 2013 pursuant to RSA 21-G:30, I (c).



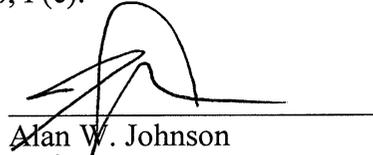
Chairman, Joseph DiBrigida, Jr.



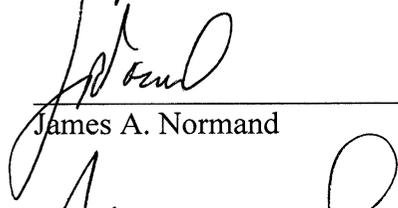
Vice Chairman, Dale S. Kuehne



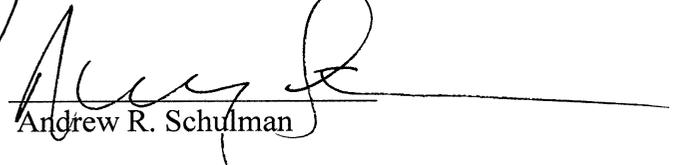
Patricia B. Quigley



Alan W. Johnson



James A. Normand



Andrew R. Schulman