

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

Issued to:

John F. Apitz, Esq.

Messerli & Kramer P.A.

1800 Fifth Street Towers

150 South Fifth Street

Minneapolis, MN 55402-4218

RE: Membership Directory Distribution

ADVISORY OPINION #184

SUMMARY

184. The distribution of the annual membership directory of the Minnesota Government Relations Council, a nonprofit corporation which is neither a lobbyist principal nor a lobbyist as defined in Minn. Stat. Ch. 10A, is not prohibited. The distribution of the directory is within the exceptions to the gift prohibition for services to assist an official in the performance of official duties and informational material of unexceptional value, as set out in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

FACTS

As a member of the board of directors of the Minnesota Government Relations Council ("the MGRC"), you ask the Board for an advisory opinion based on your statement of the following facts and information provided:

1. The MGRC is a nonprofit corporation whose membership is composed of lobbyists registered with the Minnesota Ethical Practices Board ("the MEPB"); however, the MGRC is not a principal or a lobbyist and is not registered with the MEPB.
2. MGRC members pay dues to the organization which are used, in part, to produce an annual membership directory; however, the directory is a publication of the MGRC, a nonprofit corporation with independent legal status which is neither a lobbyist principal nor a lobbyist as defined in Minnesota law.
3. The annual membership directory published by MGRC includes members' pictures, addresses, telephone numbers, and with whom the members are associated.
4. Each MGRC member receives a copy of the directory as one of the benefits of

membership. Nonmembers may purchase copies of the directory from the organization for \$12.00 per directory.

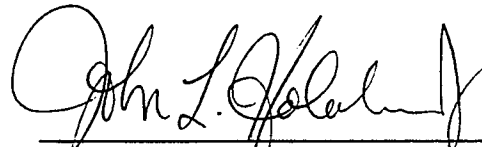
QUESTION

May the MGRC provide copies of its membership directories to state legislators free of charge to assist them in the performance of their legislative duties?

OPINION

Yes. The distribution to legislators of the annual membership directory of the MGRC, a nonprofit corporation which is neither a lobbyist principal nor a lobbyist as defined in Minn. Stat. Ch. 10A is not prohibited. Although requested by MGRC members, who are lobbyists, the distribution is within the exceptions to the gift prohibition for services to assist an official in the performance of official duties and for informational material of unexceptional value, as set out in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

Issued: 2-13-95



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

Subd. 11. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative action or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

...

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;
- (p) the director of the racing commission, the director of the gambling control board, the director of the state lottery, and the deputy director of the state lottery;
- (q) director or the division of gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority; or
- (s) member of the board of directors or president of the Minnesota world trade center corporation.

...

Subd. 28. **Principal.** "Principal" means an individual or association that:

- (1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or
- (2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of governmental units, as described in section 10A.04, subdivision 6.

Minn. Stat. § 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED provides:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

Subd. 2. **Prohibition.** A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 7;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) the prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.