

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

40 IAC 2-1-7

SEC recommended cautions to DFI's Director and Deputy Director who questioned the appropriateness of their employees accepting complimentary registration, rooms and meals from trade organizations of financial institutions.

No. 89-I-17 Travel, Events

FACT SITUATION

The Director and Deputy Director of the Department of Financial Institutions raised questions concerning the propriety of acceptance of complimentary registration, complimentary rooms and meals by their employees, either individually or collectively, from trade organizations of financial institutions. Trade organizations in the financial industry such as The Indiana Bankers Association, The Indiana Credit Union League, The Indiana League of Savings Institution and The Consumer Finance Association have annual meetings of members. Federal regulators such as the National Credit Union Administration, Comptroller of the Currency, Federal Reserve Board, Federal Deposit Insurance Corporation, and Federal Home Loan Bank Board also have annual meetings for state regulators, and from time to time industry people are included. National organizations such as the Conference and State Bank Supervisors, the National Association of State Credit Union Supervisors, the Credit Union National Association and others have meetings periodically.

The Department of Financial Institutions does not regulate any of these trade associations, but they do regulate the people that make up the entities.

From time to time, free or discounted registration for schools, training conferences or classes are offered by the trade organizations.

QUESTION

Is it appropriate for regulators to accept the following:

- 1) registration fees and rooms from trade associations of regulated entities for employees of the department to attend annual meetings of the trade association;
- 2) free or discounted registration for classes at regional schools and training conferences and free or discounted training materials offered by trade organizations of regulated entities and financial institutions;
- and
- 3) free meals from trade organizations of regulated entities or financial institutions offered at the department's own annual seminar or when a financial institution is being examined.

OPINION

The Commission responded that it did not want to create a wall around government or discourage state employees from attending meetings or training sessions which benefit the department or agency.

The Commission recommended three cautions to the department:

- a) The reimbursement or "assumption of expenses" policy be that the state allow such reimbursement or assumption from a trade association of regulated entities only when it would be afforded to any other person not a state employee similarly situated (for example, if all speakers are provided free registration). Even if a free registration or room could be accepted because other persons similarly situated would received the same, the state employee should not accept if the offer is simply a facade for providing a gift.

b) Specific instructions be given to state employees and put into policy statements and manuals that in order to avoid even the appearance of impropriety, if one who is regulated raises a topic with a regulator in an informal meeting situation, the regulator's response should be that he or she cannot discuss that here.

c) Generally, no free or discounted registration, room, meal, or training material should be accepted from an employee of a regulated entity because the motivation could be construed to be to influence a decision of a regulator or curry special favors.

The basic concern is that no trade organization or other organization think it is getting some favor from the state for its members by assuming the associated costs. A second concern is that such meetings do not provide an opportunity for "informal hearings" of those regulated with the regulators.

The relevant rules follow:

"40 IAC 2-1-7(B) However, state officers and employees should exercise due care that such occasions or events are of a nature and in a setting that may not be reasonably construed by the public as improper.

"40 IAC 2-1-7(C) State employees should utilize the normal state policy and procedures concerning travel expense and allowance provisions when attending events concerning state business. However, there may be instances where state employees may be considered in compliance with the letter and spirit of the Code (40 IAC) even if expenses are directly assumed by a sponsor. The Ethics Commission may review such event for any improprieties. Each case shall be evaluated on its individual merits."

7/26/89