

STATE OF NEW YORK: COUNTY OF SUFFOLK
SUFFOLK COUNTY ETHICS BOARD

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In the Matter of the Inquiry of



ADVISORY OPINION

No. AO-2015-15*

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NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL. Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.

ADVISORY OPINION REQUEST

1. *Advisory Opinion Inquiry:* The Suffolk County Board of Ethics has received a request from a Suffolk County Legislator seeking an opinion as to whether it would violate the Suffolk County Code of Ethics for the Legislator to accept a campaign contribution check signed by a registered lobbyist. (*Requestor's Exhibit #1*)

2. *Conclusion:* Based on the facts before the Suffolk County Board of Ethics, it is the opinion of the Board that campaign contribution checks are not gifts under the Suffolk County Ethics Laws.

GOVERNING AUTHORITY

3. The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, §77-3(e) and §77-3(g).

PROCEDURAL HISTORY

4. This Advisory Opinion was requested on 10/30/2015. (*Requestor's Exhibit #1*)
5. Fact Finding was concluded on 11/13/2015.
6. The Board voted on this Advisory Opinion on 11/18/2015.

STANDING

7. The Board determined that standing exists for this Advisory Opinion request due to the requestor's position as a public servant employed by the Suffolk County Legislature which mandates compliance with the Suffolk County Ethics Laws and based on proposed future conduct (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1,*).

INFORMATION PRESENTED TO THE BOARD

8. The Legislator asserts his campaign received a check for \$ [REDACTED] from [REDACTED] [REDACTED] signed by [REDACTED]. (*Requestor's Exhibit #1, SCBE Exhibit #1 NYS Election Campaign Contribution Report and NYS Financial Disclosure Report of [REDACTED]*).

9. [REDACTED] is a registered Lobbyist with Suffolk County listing his client to be [REDACTED] (*SCBE Exhibit #2 – Suffolk County Registered Lobbyist List dated [REDACTED]*).

ANALYZED LAW

10. Suffolk County Code, Chapter 77 “Ethics and Accountability” provides, in pertinent part:

§ 77-3. PROHIBITED CONDUCT.

G. No public servant shall solicit or accept or receive any gift or gratuity from a lobbyist.

OPINION AND CONCLUSION

11. The Board finds that under § 77-3(G), the Requestor is prohibited from, receiving gifts from a lobbyist. As the term “gift” is not defined in the Suffolk County Code, the Board looks to State Law for definition of gifting to a public official.

12. The Public Officers Law §73(5) sets forth at subdivisions (b) and (c) the Legislative Law §§1-c(j) and 1-m with respect to gifting. Section 1-c(j) provides in pertinent part, as follows:

“1-c (j) - The term “gift” shall mean anything of more than nominal value given to a public official in any form including, but not limited to, money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, having a monetary value. The following are excluded from the definition of gift:

(viii) contributions reportable under article fourteen of the election law;”

13. As set forth above, the Board finds that a contribution reportable under article fourteen of the election law is not a gift from a Lobbyist which the acceptance would be in violation of §77-3(g).

14. The opinion rendered herein, until and unless amended or revoked, is binding upon the Ethics Board in any subsequent proceeding concerning the person who requested it and who acted in good faith in reliance upon it, *unless material facts were omitted or misstated by the person in the request for the opinion* or in any related supporting documentation.

15. Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

16. The forgoing is the opinion of the Board.

Dated: Great River, New York
November 18, 2015*

Linda A. Spahr, Esq. - Chair

*Note: Scrivener's error at paragraphs 1, 3, 11, 12, and 13 corrected by Board on July 6, 2016.