

Senate Ethics Committee

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ADVISORY OPINION 92-6

To: Members, South Carolina Senate

From: Ethics Committee

Re: Acceptance of an Invitation from Phillip Morris Companies, Inc. to Various Activities Associated with Spoleto Festival U.S.A.

Date: May 11, 1992

A member has raised a question as to whether Phillip Morris Companies, Inc. may offer invitations to members of the Senate to certain receptions and offer complimentary tickets to certain performances during the annual Spoleto Festival U.S.A. The member indicates that although Phillip M. Companies, Inc. is not a registered lobbyist's principal, "one of [its] wholly owned subsidiaries, Phillip Morris, U.S.A. is a lobbyist's principal.

The member further states:

I have read your Committee's memorandum of March 11. It appears to me that Phillip Morris Companies, Inc., as a non-lobbyist's principal, is in the same status as the Mayor and City Council in Part IV of the March 22 memo and the activities described above are permissible under the ethics law and any member attending would be required to report the receipt of anything of value above \$25.00 [per day].

The Committee agrees with the above assessment of the discussion presented in Part IV of Opinion #92-4 but suggests that the analysis should be expounded upon given the relationship of these two entities to one another. Although it was not expressed

in that part of Advisory Opinion #92-4,¹ the facts presented by the member clearly indicated that the invitation of the City Council was not related to the activities of the Municipal Association. The City Council,² by definition, is not a lobbyist's principal. The Association, which is a lobbyist's principal, was not involved with the invitation; it was simply holding its annual meeting in Columbia at the time.³ Although similar, the facts presented in this instance are not identical to those presented in the prior opinion.

Given that the lobbyist's principal (Phillip Morris, U.S.A.) is wholly owned by the entity extending the invitation (Phillip Morris Companies, Inc.), it is important to note the provisions of Section 2-17-90(A):

Except as otherwise provided under Section 2-17-100,⁴ no lobbyist's principal may offer, solicit, facilitate, or provide to a public official or public employee, and no public official or public employee may accept lodging, transportation, entertainment, food, meals, beverages, or an invitation to a function paid for by a lobbyist's principal, except for⁵ . . .

Therefore, a crucial question in this inquiry is whether Phillip Morris, U.S.A. is facilitating the offer of Phillip Morris Companies, Inc. It is equally important to add, however, that even if this were the case, it is only relevant because it would make applicable the limitation on the amount that could be expended per expected attendee to twenty-five dollars per day and two hundred dollars per year. Subject to these limitations, the invitation would be appropriate as the inquiry indicates that the entire Senate will be invited.

¹See Senate Journal, April 8, 1992, Page 18.

²See Sections 2-17-10(13) and (14), which were discussed in Part IV of Opinion #92-4.

³See Footnote #2.

⁴This Code section, which is not relevant to the question presented, relates to an invitation to speak which was discussed in Advisory Opinion #92-4.

⁵The exceptions allow a lobbyist's principal to extend an invitation to various groupings of officials, such as the entire Senate, as will be the case in the instance of Phillip Morris, Inc. Section 2-17-90 also limits expenditures by lobbyist's principals to twenty-five dollars per day and two hundred dollars per year in the aggregate.

The member has indicated, and Phillip Morris, U.S.A. has confirmed, that Phillip Morris, U.S.A. has not facilitated or been involved in any way with the Spoleto activities or the invitations which Phillip Morris Companies, Inc. seeks to offer. Therefore, as the member suggested, the Committee concludes that the **acceptance** of the invitation by Phillip Morris Companies, Inc. **is appropriate** and further concludes that members **must report** the acceptance of anything of value received in excess of twenty-five dollars per day and in excess of two hundred dollars per year in the aggregate from Phillip Morris Companies, Inc.

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