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February 5, 1997

ADVISORY OPINION NO. 97-11

Jim Sullivan
 President
 Alabama Public Service Commission
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Conflict Of Interests/Chairman Of
 Public Service Commission
 Accepting Expense-Paid Travel To
 Symposium Sponsored By Voluntary
 Associations, Including Regulated
 Utilities.

The Chairman of the Public Service
 Commission may accept reasonable
 transportation, food and beverages
 where the provider is present, and
 lodging expenses in the continental
 United States and Alaska which are
 provided in conjunction with an
 educational or informational purpose
 together with any hospitality
 associated therewith; provided, such
 hospitality is less than 50 percent of
 the time spent at such event; and
 provided further, that if the aggregate
 value of such transportation, lodging,
 food, beverages, and any hospitality
 provided to such public employee,
 public official, and his or her
 respective households is in excess of
 \$250.00 within a calendar day, the
 total amount shall be reported to the
 Commission by the provider.

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The President of the Public Service Commission may accept travel expense payment for his attendance at a symposium sponsored by voluntary associations that may include regulated utilities; provided, his attendance is reasonably related to performing the functions of his office; that the travel expense payment is not made in exchange for official action on the part of the President of the Public Service Commission; and further, that while attending the symposium he not communicate with agents of a utility regulated by the Alabama Public Service Commission on regulated matters pertaining to that utility.

This Advisory Opinion expressly overrules Advisory Opinion No. 95-01.

Dear Mr. Sullivan:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May the President of the Alabama Public Service Commission accept expense-paid travel to attend an educational symposium sponsored by voluntary associations, whose membership may include regulated utilities?

FACTS AND ANALYSIS

On January 4, 1995, the Alabama Ethics Commission issued Advisory Opinion No. 95-01 to Jim Sullivan, President of the Alabama Public Service Commission. In that opinion, the Commission held that the President of the Alabama Public Service Commission may use State funds to participate in an educational symposium. That opinion further held that the President of the Alabama Public Service Commission may not accept reimbursement for travel expenses to attend an educational symposium sponsored by voluntary associations, whose membership includes regulated utilities.

That Advisory Opinion relied on the following Code Sections:

Section 36-25-5(a) states:

"No public official or employee shall use an official position or office to obtain direct personal financial gain for himself, or his family, or any business with which he or a member of his family is associated unless such use and gain are specifically authorized by law."

Section 36-25-6 states:

"No person shall offer to or give to a public official or employee or his family, and none of the aforementioned shall solicit or receive anything of value, including a gift, favor or service or a promise of future employment, based on any understanding that the vote, official actions, decisions or judgment of the intended recipient or family member would be influenced thereby. Expenses associated with social occasions afforded public officials and employees shall not be deemed a thing of value within the meaning of this section or prohibited hereby."

Section 36-25-12 states:

"No person shall offer or give to a member or employee of a governmental agency, board or commission that regulates a business with which such person is associated, and no member or employee of a governmental regulatory agency, board or commission shall solicit or accept from any such person anything of value including a promise of future employment or a favor or service while the member or employee is associated with the regulatory agency, board or commission. Expenses associated with social entertainment afforded members and employees shall not be deemed a thing of value within the meaning of this section."

The rationale behind Advisory Opinion No. 95-01 was that reimbursement for travel expenses to this educational symposium would be a thing of value, and therefore, prohibited by the Alabama Ethics Law.

Subsequent to the issuance of this Advisory Opinion, the Alabama Ethics Law was amended with an effective date of October 1, 1995.

Included in the new Ethics Law was the following exception to the term "thing of value":

Section 36-25-1(32)(b)(4) states:

"Reasonable transportation, food and beverages where the provider is present, and lodging expenses in the continental United States and Alaska which are provided in conjunction with an educational or informational purpose, together with any hospitality associated therewith; provided, that such hospitality is less than 50 percent of the time spent at such event, and provided further that if the aggregate value of such transportation, lodging, food, beverages, and any hospitality provided to such public employee, public official, and his or her respective household is in excess of two hundred fifty dollars (\$250) within a calendar day the total amount expended shall be reported to the commission by the provider. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure."

The new Ethics Law specifically recognizes the value of a public employee or a public official being allowed to attend certain educational/informational seminars, symposiums, conventions, etc., that directly impact on the performance of their public position.

Based on the facts as provided and the above law, the President of the Alabama Public Service Commission may accept reimbursement for travel expenses for his attendance at a symposium conducted by various voluntary associations, whose membership may include regulated utilities under the terms as set forth in Section 36-25-1(32)(b)(4).

In addition, his attendance at the educational symposium must be reasonably related to the performance of his responsibilities as President of the Public Service Commission, and may not be accepted if the transportation reimbursement is made in exchange for official action on his part; and further, that while attending the symposium he not communicate with agents of a utility regulated by the Alabama Public Service Commission on regulated matters pertaining solely to that utility.

CONCLUSION

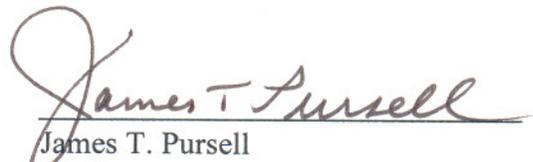
The Chairman of the Public Service Commission may accept reasonable transportation, food and beverages where the provider is present, and lodging expenses in the continental United States and Alaska which are provided in conjunction with an educational or informational purpose together with any hospitality associated therewith; provided, such hospitality is less than 50 percent of the time spent at such event; and provided further, that if the aggregate value of such transportation, lodging, food, beverages, and any hospitality provided to such public employee, public official, and his or her respective households is in excess of \$250.00 within a calendar day, the total amount shall be reported to the Commission by the provider.

The President of the Public Service Commission may accept travel expense payment for his attendance at a symposium sponsored by voluntary associations, that may include regulated utilities; provided, his attendance is reasonably related to performing the functions of his office; that the travel expense payment is not made in exchange for official action on the part of the President of the Public Service Commission; and further, that while attending the symposium he not communicate with agents of a utility regulated by the Alabama Public Service Commission on regulated matters pertaining to that utility.

This Advisory Opinion expressly overrules Advisory Opinion No. 95-01.

AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on February 5, 1997.


James T. Pursell
Chair
Alabama Ethics Commission