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ADVISORY OPINION NO. 98-13

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Conflict Of Interests/Employees Of
Geological Survey Of Alabama And Oil
And Gas Board Soliciting Donations For
Geological Survey's 150th Anniversary.

Employees of the Geological Survey of Alabama and the Oil and Gas Board may solicit donations for the Geological Survey's 150th anniversary celebration from persons or businesses whom they do not directly inspect, regulate, or supervise in their official capacity, when the solicitation is done solely for purposes of carrying-out the Geological Survey of Alabama's 150th anniversary celebration, and there is no personal gain to the public employee and no influencing of official action.

Employees of the Geological Survey of Alabama and the Oil and Gas Board may not solicit donations from vendors doing business with the Geological Survey of Alabama and the Oil and Gas Board or from lobbyists.

Further, monies solicited may not be used to pay for employees of the Geological Survey of Alabama and the Oil and Gas Board or

the families of the employees of the Geological Survey of Alabama and the Oil and Gas Board to attend either the April 17, 1998 reception or the Founder's Day Celebration and picnic.

Dear Mr. Rogers:

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 employees with the Geological Survey of Alabama and the Oil and Gas Board write letters to individuals and businesses with whom the Geological Survey of Alabama and the Oil and Gas Board have contact, notifying them of the 150th anniversary celebration and requesting donations?

FACTS AND ANALYSIS

The Geological Survey of Alabama (GSA) is celebrating its 150th anniversary this year. Being the oldest agency of the State, the GSA has planned several activities to celebrate the occasion.

The committee planning the celebration consists solely of employees of the GSA. The committee has planned the following events, depending upon funds raised:

- (1) Erecting an historic marker honoring the GSA;
- (2) Planting a tree in honor of each of the three deceased former State Geologists;
- (3) A reception in Smith Hall, where the GSA was located for years, for the evening of April 17, 1998;
- (4) Educational field trips for the public to areas of geological interest in the State;
- (5) A "geology day" that will include activities for adults and children including a fossil dig, a 10-K run, and an open-house of the GSA facilities; and,

- (6) A founder's day celebration and picnic.

The committee has raised money with a bake sale, voluntarily selling cakes to employees, and a rummage sale. However, the committee is now considering accepting donations from individuals and businesses. They have asked for guidance in how they may request donations and of whom they may request donations.

In the past, the Ethics Commission has addressed this issue in Advisory Opinion No. 96-101, involving the State Capitol Police soliciting items for a Christmas party for handicapped children. The Commission stated:

"Members of the State Capitol Police may solicit a thing of value from a person or business with whom they do not directly inspect, regulate or supervise in their official capacity, when the solicitation is done for a non-profit organization, where there is no personal gain to the public employee and no influencing of official action."

The opinion further held that:

"Members of the State Capitol Police may not solicit a thing of value from a vendor which does business with the State Capitol Police or a lobbyist."

Likewise, in Advisory Opinion No. 96-57 where employees of the Alabama State Employees Association desired to solicit door prizes and contributions for Camp Smile-A-Mile, the Commission held:

"Members of the Alabama State Employees Association, Third Division, Transportation Chapter, may solicit a thing of value from a person or business with whom they do not directly inspect, regulate or supervise in their official capacity, when the solicitation is done for a non-profit organization, where there is no personal gain to the public employee and no influencing of official action."

Further, the opinion held:

"Members of the Alabama State Employees Association, Third Division, Transportation Chapter, may not solicit a thing of value from a vendor who does business with the Department of Transportation that they directly inspect, regulate or supervise."

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(e) states:

"(e) No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity."

Section 36-25-7(a) states:

"(a) No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive a thing of value for the purpose of influencing official action."

Section 36-25-7(b) states:

"(b) No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action."

In the facts before the Ethics Commission, while there will not be a personal gain accruing to a public employee or a public official, it is important to point out that employees of the GSA Committee and the Oil and Gas Board may not solicit anything of value from a lobbyist, an individual or business that they regulate or a vendor that does business with the GSA and the Oil and Gas Board.

Based on the above law and the facts as provided, employees of the Geological Survey of Alabama and the Oil and Gas Board may solicit donations for the Geological Survey's 150th anniversary celebration; provided:

- (1) That such solicitation is from persons or businesses whom they do not directly inspect, regulate, or supervise in their official capacity;
- (2) That the solicitation is done solely for purposes of carrying-out the Geological Survey of Alabama's 150th anniversary celebration;
- (3) That there is no personal gain to the public employee and no influencing of official action;
- (4) That they not solicit donations from vendors doing business with the Geological Survey of Alabama and the Oil and Gas Board or from lobbyists; and,
- (5) That monies solicited may not be used to pay for employees of the Geological Survey of Alabama and the Oil and Gas Board or the families of the employees of the Geological Survey of Alabama and the Oil and Gas Board to attend either the April 17, 1998 reception or the Founder's Day Celebration and picnic.

CONCLUSION

Employees of the Geological Survey of Alabama and the Oil and Gas Board may solicit donations for the Geological Survey's 150th anniversary celebration from persons or businesses whom they do not directly inspect, regulate, or supervise in their official capacity, when the solicitation is done solely for purposes of carrying-out the Geological Survey of Alabama's 150th anniversary celebration, and there is no personal gain to the public employee and no influencing of official action.

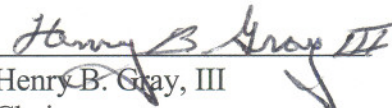
Employees of the Geological Survey of Alabama and the Oil and Gas Board may not solicit donations from vendors doing business with the Geological Survey of Alabama and the Oil and Gas Board or from lobbyists.

Further, monies solicited may not be used to pay for employees of the Geological Survey of Alabama and the Oil and Gas Board or the families of the employees of the Geological Survey of Alabama and the Oil and Gas Board to attend either the April 17, 1998 reception or the Founder's Day Celebration and picnic.

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AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on March 4, 1998.


Henry B. Gray, III
Chair
Alabama Ethics Commission