

Philadelphia Board of Ethics Opinion No. 2004-02

THE PENNSYLVANIA SOCIETY AND EXECUTIVE ORDER NO. 002-04

It is the understanding of the Ethics Board that the Pennsylvania Society is a private nonprofit organization that annually hosts this event for the purpose of providing a meeting place for various government officials and political “players” from throughout the Commonwealth to socialize. The event is in New York City. A 1997 newspaper article described the Society as follows:

The Pennsylvania Society of New York was organized on April 25, 1899, by coal, steel and railroad magnates, who, as the legend goes, would summon politicians to New York on the second weekend of December to give them their orders for the following year. In part, the society's reason for being, according to its constitution, is to "cultivate social intercourse among its members, and to promote their best interest." Now numbering 311 members, the society exists mainly for the dinner that serves as a centerpiece for a weekend full of networking, name-dropping, shopping and shows.

At the dinner, the society presents a gold medal. This year, industrialist, philanthropist and political contributor Henry Hillman and his wife, former national Republican committeewoman Elsie Hillman, were honored. Previous winners include Joe Paterno, Bill Cosby, David McCullough, Andrew Wyeth, Gen. George C. Marshall and F. Eugene Dixon Jr.

Once almost exclusively Republican, the weekend now draws its share of Democrats, though most keep their liberal leanings tucked quietly in their cummerbunds.

* * *

The stated purpose of the trip is the Saturday-night Pennsylvania Society Dinner, but the real action, or at least the pretend action, occurs during the numerous receptions that come before and after.

None is more popular than the gathering hosted by the Sun Co., where scores of pols and their operatives, lobbyists and their corporate execs, and, yes, journalists and their publishers, go to mingle over fine wine and finger food.

"It's just social. Ninety percent of the conversations last a minute-and-a-half," said Jeff Peters, the lobbyist for Sun, which co-hosted the reception with the Associated Petroleum Institute, a trade group.

"It's a large, open event," said Peters, who said a "ballpark" cost of the reception was \$10,000. "People come just to see people."

* * *

Some events are by invitation only. A key ticket is to the Saturday luncheon hosted by the Pennsylvania Manufacturers' Association - a gathering that is predominantly male, predominantly white and predominantly Republican.

"They obviously want to be able to talk to legislators," Murray G. Dickman, PMA's president (and former top aide to Thornburgh), said of the various receptions. "But all the years I've been going, 20 years, it's pretty lighthearted. My sense . . . is that there's not a lot of arm-twisting."

The PMA, for the second year in a row, also held a forum on educational issues. This year, Perzel and State Rep. Dwight Evans (D., Phila.) were among those who discussed ways to improve education in urban areas.

Many receptions are purely political. For instance, GOP national committeeman and mega-bucks campaign financier Herb Barness of Bucks County hosted a gathering for Ridge and members of his "Governor's Club" of big givers on Saturday. The day before, New York Mayor Rudolph Giuliani was keynote speaker at a Republican State Committee luncheon.

Some of the receptions, such as the one sponsored by Sun, are long-standing, involving banks, law firms and other groups that are either regulated by or vie for no-bid work from the state.

On Friday, the influential Philadelphia firm of Blank Rome Comisky & McCauley hosted a 7 p.m. reception at the Hotel Inter-Continental, just across the street from the Waldorf. Blank Rome is the home of Ridge friend and campaign treasurer David Girard-diCarlo, who also is chairman of the Greater Philadelphia Chamber of Commerce.

* * *

For certain officials of the City of Philadelphia, attendance at the Pennsylvania Society has been historically considered to be an official function, and the City has paid for or reimburses for travel and the hotel stay. An ethics question has been raised about the provision of free food by law firms, businesses, and trade associations during the weekend, in conjunction with the event.

The Society

First, we have not been advised whether any City officials are themselves members of the Society or whether any pay dues or an attendance fee to the Society, or whether the Society provides food (or anything else) for free. Provision of free food by the Society could arguably come under one of four exceptions to the Executive Order:

1. The Society might not be a prohibited source as defined in Section 1 of the Order. We have not been advised where the Society's offices are located, but if they are not in Philadelphia, the Society may not be an entity regulated by the City in any way.

2. If the Society meeting is held in what could be considered the Society's "place of business" (a hotel conference room is probably not sufficient), the exception for food provided during the ordinary course of a meeting may apply (Section 2(b) of the order).

3. Section 2(c) would probably not apply, food at a public ceremony sponsored by a nonprofit and attended by the official in his/her official capacity, as it does not appear that the Society's meeting is public.

4. "Gift to the City." We will discuss this below, as the considerations are identical for other entities.

Vendors and Potential Vendors to the City of Philadelphia

The second question is whether City officials may accept free food and entertainment from for-profit entities that sponsor parties and the like at hotels during the Society weekend. Some of these entities are clearly prohibited sources under Section 1 of the Order, such as Philadelphia law firms that have or may seek legal services contracts or bond counsel contracts with the City. So, do the exceptions apply?

1. Section 2(b). Even more than the Society itself, the Board concludes that it cannot be argued that a party at a hotel in New York sponsored by a Philadelphia law firm can be considered to be a "meeting" at "a place of business."

2. Section 2(c). Definitely does not apply to for-profit businesses.

3. "Gift to the City." The problem here is that almost anything can be argued to be a 'Gift to the City' depending on what the standards are. Almost any free dinner can be justified on the basis of "maintaining good relations with City businesses or vendors."

However, beginning at the November 15th meeting of the Ethics Board, the Board has discussed adopting a standard for "Gifts to the City." Based on that discussion, and on prior rulings (see Opinion No. 93-8, 1992-1993 City Solicitor's Opinions at 273), the Board adopts the following standard:

A gift may be accepted as a "gift to the City," if the following procedure is followed:

1. The gift must not simply be offered to and accepted by the City employee receiving the benefit of the gift. Ideally, a private entity wishing to make a gift to the City, such as attendance at a dinner or conference by certain mid-level managers, will make the offer to the appointing authority of any officials invited to attend. (For example, to the extent that Pennsylvania Society events include cabinet-level officials, the appointing authority would be the Mayor.) That appointing authority should then make the decision as to which City employee/official is the logical person to represent the City at the dinner or

conference or the like. However, an invitation extended directly to the official who is invited may be acceptable as a “gift to the City” if that official’s appointing authority approves acceptance of the invitation and is able to articulate a defensible justification why the invited official is the logical City employee to utilize that benefit, and if point #2 below is also met.

2. The approving official must be able to articulate a defensible justification as to a legitimate governmental purpose of the City that is advanced or assisted by the acceptance of this gift. In making this determination, the official must review the full facts of the extent and value of the gift. For example, if more than one official is a recipient, is the number of recipients appropriate? Does the gift include unnecessary extras unrelated to the governmental purpose? In determining whether a gift is justifiable, the official should consider whether the City would be willing to expend funds out of the City budget for a similar purpose.

Applying the Standard to Pennsylvania Society Events

The Board finds that there are two equally firm conclusions:

1. It is clear that Executive Order No. 002-04 cannot be read to permit absolutely any City employee who is invited to absolutely any event at all during the Pennsylvania Society weekend to accept free attendance (and consumption of food and beverage) at the event, without any further approval; and
2. It is also clear that Executive Order No. 002-04 does not on its face prohibit absolutely all acceptances of invitations, no matter what process is followed.

For example, we believe the following describes a permissible “gift to the City”: where the City has designated individuals to attend events as part of the City’s institutional efforts in trying to influence legislation in Harrisburg as well as policy (e.g., environmental, safety, storm-water) in surrounding jurisdictions.

Approved by the Board December 3, 2004