



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 36

July 24, 1992

Acceptance of a plaque by an officer of an executive branch agency. (AOR-44)

The Texas Ethics Commission has been asked about the acceptance of a plaque by an officer of an executive branch agency. An organization that is not required to register under the lobby statute wishes to give the officer a plaque as a gesture of appreciation for a speech the officer made to the organization. The officer estimates the cost of the plaque to be \$40 to \$60.

Under section 36.08(a) of the Penal Code, a public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency. An officer of an executive branch agency is a public servant for purposes of that section. Penal Code § 1.07(30). The requestor states that the organization in question is not subject to regulation, inspection, or investigation by the officer in question or by his agency. The requestor also states that a member of the organization may be regulated by the agency. We need not consider whether there are circumstances under which a gift from an organization might also be considered a gift from an individual member of the organization because we conclude that a plaque would not, as a general rule, constitute a benefit for purposes of chapter 36 of the Penal Code.

"Benefit," for purposes of chapter 36 of the Penal Code, is "anything reasonably regarded as pecuniary gain or pecuniary advantage." Penal Code § 36.01(5). The receipt of a plaque would not offset expenditures that people are likely to make for themselves, no matter how well off they are. As a general rule, the receipt of a plaque could not reasonably be regarded as pecuniary advantage.¹

SUMMARY

As a general rule, the receipt of a plaque could not be reasonably regarded as pecuniary advantage and is therefore not a benefit for purposes of chapter 36 of the Penal Code.

¹ A plaque would be a benefit, for example, if it were made of gold or decorated with jewels or cash.