



MISSOURI ETHICS COMMISSION
P.O. Box 1254
Jefferson City, MO 65102
www.mec.mo.gov
(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

November 2, 2017

Re: Advisory Opinion No. 2017.11.L.020

Dear

At the November 2, 2017 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints concerning personal financial disclosure reporting under Chapter 105. This opinion is issued within the context of Missouri's statutes governing such issues, and assumes the facts presented by you in your letter.

The questions presented and responses for each question are as follows:

If legislator hunts at a private club, out of state, that costs lobbyist \$600 annually...

- 1. Is that a contribution; and*
- 2. If yes, is it considered in-kind?*
- 3. Does lobbyist or legislator report it?*
- 4. Because it's out of state, does the reporting party need to disclose the contribution any sooner than quarterly?*

Lobbyist and Campaign Finance Reporting

The question as presented does not state the purpose of the opportunity at the private club, or any familial relationship between the legislator and lobbyist. A lobbyist expenditure is defined in §105.470(3), RSMo, in relevant part:

any payment made or charge, expense, cost, debt or bill incurred; any gift, honorarium or item of value bestowed including any food or beverage; any price, charge or fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible cost or fair market value from one person to another or provision of any service or granting of

any opportunity for which a charge is customarily made, without charge or for a reduced charge; except that the term "expenditure" shall not include the following:

(a) Any item, service or thing of value transferred to any person within the third degree of consanguinity of the transferor which is unrelated to any activity of the transferor as a lobbyist;

...

(c) Contributions to the public official's campaign committee or candidate committee which are reported pursuant to the provisions of chapter 130;

...

(d) Any item, service or thing of de minimis value offered to the general public, whether or not the recipient is a public official or a staff member, employee, spouse or dependent child of a public official, and only if the grant of the item, service or thing of de minimis value is not motivated in any way by the recipient's status as a public official or staff member, employee, spouse or dependent child of a public official;

(f) The transfer of any item, provision of any service or granting of any opportunity with a reasonably discernible cost or fair market value when such item, service or opportunity is necessary for a public official or employee to perform his or her duty in his or her official capacity, including but not limited to entrance fees to any sporting event, museum, or other venue when the official or employee is participating in a ceremony, public presentation or official meeting therein;

(g) Any payment, gift, compensation, fee, expenditure or anything of value which is bestowed upon or given to any public official or a staff member, employee, spouse or dependent child of a public official when it is compensation for employment or given as an employment benefit and when such employment is in addition to their employment as a public official;

Assuming that none of the exceptions apply, the opportunity qualifies as a lobbyist expenditure and the lobbyist is required to report the expenditure pursuant to §105.473.3(2), RSMo. Expenditures are reported at the fair market value so it will be necessary to determine the fair market value of this opportunity, such as the cost assessed for a guest to hunt, the fair market value of an opportunity to hunt at the club, and other fees.

§105.473.4, RSMo provides that "no expenditure shall be made on behalf of a state senator or state representative, or such public official's staff, employees, spouse, or dependent children for travel or lodging outside the state of Missouri unless such travel or lodging was approved prior to the date of the expenditure by the administration and accounts committee of the house or the administration committee of the senate." While the question involves a hunting opportunity, and does not indicate whether the lobbyist is paying for travel or lodging out of state, the legislator and lobbyist are directed to the relevant committee to determine whether it is necessary to receive prior approval.

In the unlikely event the occasion held out of state is related to the legislator's status as a candidate for public office, such as a fundraiser, it is possible that the opportunity qualifies as an in-kind contribution under §130.011(12) and (19), RSMo. This would be reported by the legislator's candidate committee pursuant to §130.041, RSMo. As stated above, contributions to the public official's campaign committee or candidate committee which are reported pursuant to the provisions of chapter 130 do not qualify as a lobbyist expenditure and would not be required as such. See §105.470.3(c), RSMo.

Personal Financial Disclosure

According §105.485.2 (8) and (9) RSMo, the legislator is required to report the following on the annual personal financial disclosure statement, due May 1, for the preceding calendar year:

(8) The name and address of each source from which such person received a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in value per source during the year covered by the statement other than gifts from persons within the third degree of consanguinity or affinity of the person filing the financial interest statement. For the purposes of this section, a "gift" shall not be construed to mean political contributions otherwise required to be reported by law or hospitality such as food, beverages or admissions to social, art, or sporting events or the like, or informational material. For the purposes of this section, a "gift" shall include gifts to or by creditors of the individual for the purpose of cancelling, reducing or otherwise forgiving the indebtedness of the individual to that creditor;

(9) The lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of office of such official, except that such statement shall not include travel or lodging expenses:

(a) Paid in the ordinary course of business for businesses described in subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

(b) For which the official may be reimbursed as provided by law; or

(c) Paid by persons related by the third degree of consanguinity or affinity to the person filing the statement; or

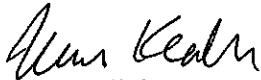
(d) Expenses which are reported by the campaign committee or candidate committee of the person filing the statement pursuant to the provisions of chapter 130; or

(e) Paid for purely personal purposes which are not related to the person's official duties by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of a member, of any association or entity which employs a lobbyist. The statement shall include the name and address of such person who paid the expenses, the

date such expenses were incurred, the amount incurred, the location of the travel and lodging, and the nature of the services rendered or reason for the expenses;

Assuming that the hunting opportunity does not qualify as a campaign contribution, the legislator is required to report the opportunity as a gift if the fair market value exceeds \$200. Any lodging or travel expenses incurred outside of the state of Missouri must be reported regardless of value.

Sincerely,



James Klahr
Executive Director