

STATE OF NEW YORK: COUNTY OF SUFFOLK  
SUFFOLK COUNTY ETHICS BOARD

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In the Matter of the Inquiry of

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**ADVISORY OPINION**

No. AO-2013-11

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NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL. Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.

**ADVISORY OPINION REQUEST**

1. *Advisory Opinion Inquiry:* The Suffolk County Board of Ethics has received a request from a Suffolk County Legislator seeking an opinion as to whether it would violate the Suffolk County Code of Ethics for the Legislator to accept a complimentary ticket to a dinner for a local not-for-profit hospital, fundraiser, or fire department installation to represent ██████ Legislative office. (*Requestor's Exhibit #1*)

2. *Conclusion:* Based on the facts before the Suffolk County Board of Ethics, it is the opinion of the Board that it would not violate the Ethics Laws for the Legislator to accept the inquired invitations because attendance at such events is a permissible exemption under the Suffolk County Ethics Law. In furtherance the Board finds that the Legislator may not accept any gifts, door prizes, raffle prizes, or auction prizes while in attendance at such events.

**GOVERNING AUTHORITY**

3. The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, §77-3(c), §77-3(e), §77-3(f), and §77-5(g).

**PROCEDURAL HISTORY**

4. This Advisory Opinion was requested on September 19, 2013. (*Requestor's Exhibit #1*)
5. Fact Finding was concluded on October 4, 2013.
6. The Board voted on this Advisory Opinion on October 9, 2013.

### STANDING

7. The Board determined that standing exists for this Advisory Opinion request due to the requestor's position as a public servant employed by the Suffolk County Legislature which mandates compliance with the Suffolk County Ethics Laws and proposed future conduct (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1*).

### INFORMATION PRESENTED TO THE BOARD

8. The Requestor is a Suffolk County Legislator (*Suffolk County Board of Ethics Exhibit #1*).

9. Suffolk County Legislators routinely attend not for profit events, fundraisers, and present proclamations in due course of their positions as community leaders (*Suffolk County Board of Ethics Exhibits #2-18 "Legislative District News Releases on Attendance at Community Events"*).

#### *Invitations to Events*

10. The Requestor habitually receives invitations to not-for profit hospital dinners ( [REDACTED] Hospital and [REDACTED] Hospital), fundraisers, and Fire Department Installation Dinners. (*Suffolk County Board of Ethics Exhibits #6 and #7 - NYS Dept. of State Division of Corporation Entity Profiles*).

11. The Requestor is often provided with one complimentary ticket to the aforementioned events to represent [REDACTED] office.

12. The Requestor is often asked to present proclamations at the aforementioned not-for profit events.

### APPLICABLE LAW

13. Suffolk County Code, Chapter 77 "Ethics and Accountability" provides, in pertinent part:

§ 77-3. PROHIBITED CONDUCT.

C. *No public servant shall use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit to himself or herself, a person or firm associated with the public servant, a customer or client of the public servant or any person from whom the*

public servant has received a gift or any goods or services for less than fair market value, during the preceding 12 months;

- E. No public servant shall solicit or accept any gift having a value of \$75 or more from any person or firm which such public servant knows is or intends to become engaged in business dealings with the County.
- F. No public servant shall receive compensation for performing any official duty except from the County *or accept or receive any gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action.*

§ 77-5. EXEMPTIONS

**This article shall not prohibit:**

- G. An elected official from accepting an invitation to, and attending and participating in, an event sponsored by a community group or organization.

### OPINION AND CONCLUSION

14. The Board finds that a Legislator's acceptance of an individual complimentary invitation to a not for profit fundraiser is not a gift that violates the Suffolk County Ethics Laws. The Board finds regardless of the face value of the fundraising ticket, one complimentary ticket to the attending Legislator is not a gift which would violate the Suffolk County Ethics Laws.<sup>1</sup>

However, activities, raffles, door prizes, silent auctions and any gifts that occur during the aforementioned events must be assessed in value and as gifts to the invitees. Under § 77-3(C) and (F), the requestor is prohibited from using [REDACTED] official position or office in a manner which [REDACTED] has reason to know may result in a personal financial benefit to [REDACTED] and from receiving a gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action. It is evident from the Requestor's Advisory Opinion request stating, "If I was offered a complimentary ticket to a dinner for a local hospital *to represent my office*, could I accept", that the invitation is being extended due to the Requestor's official position in Suffolk County Government (*Requestor's Exhibit #1*). As applied, the acceptance by a Legislator of such invitation would only be a personal financial

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<sup>1</sup> NYC COIB advisory opinion 2012-04 citing NYC COIB advisory opinions 2000-4 and 2007-3 holding that gifts of complimentary attendance to public events and functions may be given by lobbyists and accepted by public servants only where the public servant in question is attending the event in his or her official capacity.

benefit to ■■■ due to ■■■ official position or categorized as a gift for performing any official duty (except from the County) if there was a “*gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action*”.

Additionally, the Legislator is prohibited from any action or failing to take any action, in a manner which ■■■ has reason to know may result in a personal financial benefit to any person from whom ■■■ has received a gift or any goods or services for less than fair market value, during the preceding 12 months. As such, accepting any gift while in attendance at such events (raffles, door prizes, etc.) would be in violation of the ethics laws and have the collateral effect of precluding this requesting Legislator from any discussions, votes, or committee meetings regarding any matter that comes before the Suffolk County Legislature regarding the sponsoring/hosting organization. In further support of this reasoning, the Board finds that under § 77-3 under (E), “*No public servant shall solicit or accept any gift having a value of \$75 or more from any person or firm which such public servant knows is or intends to become engaged in business dealings with the County*”.

15. Additionally, the Board finds that the Requestor’s proposed future conduct is categorized under the exemption provision of the prohibited conduct law. §77-5(G), Exemptions, states:

**§77-5 This article shall not prohibit:**

G. An elected official from accepting an invitation to, and attending and participating in, an event sponsored by a community group or organization.

16. The Board finds that a County Legislator is in fact an elected official and the acceptance of an invitation to a not-for profit fundraiser dinner, Fire Department Installation Dinner, or presentation of a proclamation or award is, “attending and participating in, an event sponsored by a community group or organization” under the statutory exception.<sup>2</sup>

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<sup>2</sup> NYC COIB advisory opinion 2012-04: holding section 1-01(f) of the board’s rules permits a public servant to attend a public affair of an organization composed of representatives of business, labor, professions, news media or organizations of a civic, charitable or community nature, when invited by the sponsoring organization, provided that this exception does not apply when the invitation is from an organization which has business dealings or a matter before the public servant’s agency; further holding under board rules 101(g) provides that a public servant who is an elected official or member of the elected official’s staff authorized by the elected official may attend a “function given by” an organization composed of representatives or business, labor, professions, news media or organizations of a civic, charitable, or community nature, when invited by the sponsoring organization.

**17.** As set forth above, the Board finds that one complimentary invitation would not be a gift from which the acceptance would be in violation of §77-3(c), §77-3(e), §77-3(f) and is a permissible statutory exemption under §77-5(g).

**18.** The Board finds the Requestor presenting a proclamation at the aforementioned events would not violate the Suffolk County ethics laws.

**19.** The opinion rendered herein, until and unless amended or revoked, is binding upon the Ethics Board in any subsequent proceeding concerning the person who requested it and who acted in good faith in reliance upon it, *unless material facts were omitted or misstated by the person in the request* for the opinion or in any related supporting documentation.

**20.** Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

**21.** The forgoing is the opinion of the Board.

Dated: Yaphank, New York  
October 10, 2013

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Robin L. Long, Esq. - Chair