

## **Anne Arundel County Ethics Commission**

### **Advisory Opinion AO-98-31**

#### **Issue:**

Whether a member of the Board of Trustees of the Anne Arundel County Retirement and Pension System may participate as a speaker at two different conferences in exchange for travel and lodging expenses, where one conference is sponsored by investment management corporations and the other conference is not.

#### **Background:**

A member of the county retirement and pension system board (the "board") was invited to participate as a speaker at two separate conferences. The first conference, to be held in Lake Tahoe, Nevada, is offered by an organization called the Information Management Network (the "IMN"). The conference is titled the "Third Annual Fire and Police Pension Funds Summit". The solicitation letter from the organization indicated that the IMN was established "in order to offer educational programs of the highest quality for the international investment community." The letter stated that the previous year's conference attracted over 150 individuals from fire and police pension funds and added that "This year's Summit will place a particular emphasis on obtaining the decision-makers within the Fire and Police population. The summit will provide an educational supplement, as well as an opportunity for key industry participants to share their insights."

The second conference is being held in New York City, and is titled "Understanding Investment Policies & Guidelines". The organization hosting the conference is a private for-profit corporation called the Institute for International Research (the "IIR"). The organization's informational literature states that:

Sponsorships are available at all IIR conferences, guaranteeing full recognition and high profile for select firms. Sponsorships create a unique platform to network with industry colleagues and meet new prospects while enhancing corporate identification and goodwill to highly targeted, decision making audiences.

An IIR spokesperson stated that the New York conference is known as a "stand alone" conference, which means that there are no corporate sponsors, and the costs of the conference will be borne by the IIR and ultimately, the attendees. The spokesperson indicated that the larger and more established conferences are generally sponsored but that the smaller or newer conferences generally are not sponsored events.

The Board of Trustees of the Anne Arundel County Retirement and Pension was created

by ordinance to manage the assets of the pension and retirement system of the county. Article 7, §1A-108. The board has the power to make investments or to retain external investment managers to invest the system's assets. §1A-203.

**Discussion:**

The retirement and pension system is an agency of the executive branch of government. Article 7, §1A-102(c). The trustees charged with its management file Conflict of Interest Statements pursuant to §4-101 and §4-106 of Article 9, the Public Ethics Law and are subject to provisions of the ethics law as both employees of the executive branch and as members of a county board. Article 9, §1-101(f)(1)(i) and (ii).

This inquiry raises issues under Article 9, §3-106, which regulates the solicitation and acceptance of gifts by county employees. Since it appears from the information provided that the companies holding the conference solicited the trustee to be a speaker at these conferences, there are no issues of employee solicitation of gifts involved in this inquiry.<sup>1</sup> However, the prohibition against gifts would apply to bar the acceptance of travel expenses and lodging by this trustee if the donor is a "controlled donor", under §3-106(b). That section, in pertinent part, prohibits a county employee from accepting a gift from a person whom the employee knows or has reason to know:

1. is seeking to do business of any kind with the county; or
2. has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of any official duty of the employee.

Neither the IIR or the IMN are doing or seeking to do business with the county and their financial interests will not be substantially or materially affected by any decisions made by the trustee of the pension system board. But in the case of the IMN, the true donors are the corporate sponsors supporting the conference. (See Appendix I). As investment companies, these donors are seeking to do business with the county, and have financial interests that could be significantly impacted by the decisions of the trustee who has been offered the gift.

An exception to the prohibition against receiving gifts from controlled donors is found in §3-106(c)(4), which permits an employee to accept reasonable travel, food, and lodging expenses in exchange for participating as a speaker at a conference. However, unless the gift satisfies certain threshold requirements, it may still not be a permitted gift.

Even if it is otherwise excepted from the prohibition, an employee may not accept a gift

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<sup>1</sup> If an employee were to solicit speaking engagements at such conferences, there would also be issues of the misuse of the prestige of the office for personal gain, under §3-104.

that tends to impair the impartiality or independence of judgment of the recipient, gives the appearance of doing so because of its value, or gives the employee reason to believe that it is designed to impair the recipient's impartiality and independence of judgment.

In the case of the investment company sponsored conference in Lake Tahoe, it should be apparent that the gift of free travel and lodging expenses is designed to influence the employee's judgment. The company holding the conference indicated an emphasis on obtaining the decision-makers of the pension funds. Seven of the thirteen listed sponsors are also speakers at the conference, as are a number of non-sponsoring investment companies. This conference, albeit clearly educational for the attendees, is designed to present investment companies with marketing opportunities. For this reason, the gift of travel and lodging expenses is designed to attract increased participation in the conference and to encourage favorable consideration by the attendees and speakers toward the sponsors.

**Conclusion:**

There is nothing in the Public Ethics Law which prohibits a trustee of the retirement and pension system board from attending and speaking at either the conference held by the IIR or the IMN. It may be indeed, benefit the county for the trustees to attend regardless of whether they participate as speakers. However, every conference is different and the circumstances should be considered on a case by case basis. Since the IMN conference in Lake Tahoe is sponsored by controlled donors whose primary purpose appears to be marketing, the trustee may not accept the gift of travel and lodging expenses in exchange for speaking at the conference. On the other hand, lodging and travel expenses offered by the IIR to speak at its conference (where there are no corporate sponsors), is the gift of a non-controlled donor and can therefore, be accepted. This advice is intended to ensure that for either conference, the goodwill that may be generated between the county and any participating investment advisor will be above reproach and untainted by the appearance of a conflict of interest.

Date: \_\_\_\_\_

By: The Anne Arundel County Ethics Commission

## Appendix I:

## Sponsors of the Information Management Network's Third Annual Fire and Police Funds Summit:

(with a brief summary of the sponsor's business, as provided by the sponsor).

1. PIMCO: (Pacific Investment Management Company) - an institutional money manager.
2. Pritchard Investment Management: a global money manager, whose clients include pension funds, etc.
3. QED Information Systems, Inc: turnkey client-server global investment accounting and portfolio management systems.
4. Schroder Real Estate Associates: a full-service real estate investment advisor for institutional clients.
5. UCM: (Utendahl Capital Management, L.P.) , specializing in fixed-income asset management for tax-exempt and taxable clients.
6. Woodford Gayed Management, Inc.: a Registered Investment Advisor.
7. INVESCO: a subsidiary of AMVESCAP PLC, one of the largest global investment firms in the world.
8. Advent Capital Management: a registered investment advisor, specializing in convertible securities investment management.
9. Amerindo: an emerging growth stock manager
10. Guzman and Company: agency-only broker and a leader in developing innovative trading and execution solutions for indexed and quantitatively managed portfolios.
11. MBIA: investment management subsidiary of MBIA, Inc. listing state and local governments among its clients.
12. Navellier & Associates: an aggressive growth equity manager.
13. PanAgora: a global investment management company