

November 21, 2001
Re: IO-01-165

You inquired whether police officers may accept the offer of discounted chiropractic examinations offered to police officers and firefighters by a local chiropractor. The offer includes an initial examination at a price of \$27 instead of the regular price of \$225. The fee that is paid will be donated by the chiropractor to unspecified relief efforts in Washington D.C. and New York. The offer also includes "special discounts for continued care".

This offer has elements of both a gift and of a marketing strategy designed to attract new and ongoing business. In either case, it is not permissible to accept this offer under the Public Ethics Law.

The gift law, §3-106 prohibits county employees from accepting gifts of any significant value (more than \$25) from a controlled donor. A privately licensed chiropractor, licensed by the state, is probably not a controlled donor. This provision would not prohibit the receipt of this gift. However, §3-104(a) would prohibit a police officer from receiving a benefit of more than nominal value (more than \$25) solely because of the title, prestige or authority of the police officer's position. Since this offer is made only to public safety employees, their acceptance of this offer would constitute the intentional use of the prestige and title of their positions for their own private gain.

The offer also provides for continued care at a discounted price. This part of the offer resembles the type of marketing technique that the ethics commission has previously permitted for cell phones and alarm systems. See, IO-01-109, IO-98-17. In both those cases, the offer was a typical offer made to all employees of various large organizations, both governmental and private. The offers both required the payment of significant consideration by the employees who chose to accept the offer. This offer is directed only to public safety employees. It is designed to benefit one category of public employees. Under this circumstance, the offer is not a permissible marketing technique. And while the discount that is offered for continuing chiropractic care may involve the payment of adequate consideration, the discounted chiropractic examination does not. The public safety employee will be receiving a private and significant financial benefit because of the specific position that the employee holds in county government.

The commission therefore advises that whether this offer is considered a gift or a discount, its acceptance would violate §3-104(a) of the ethics law. The commission is aware that the efforts of police, firefighters and emergency medical services personnel in response to the attacks on the World Trade Center and the Pentagon have drawn the gratitude of all Americans, expressions of that gratitude to individual employees may not exceed the nominal limits on gifts or other financial benefits imposed by the ethics law.

Sincerely,

Betsy K. Dawson
Executive Director