

June 14, 2002
Re: IO-02-66

You inquired whether members of the county's Retirement and Pension System Board of Trustees may accept waivers of conference fees from a private entity that is in the business of holding investment conferences.

The Retirement and Pension System Board manages the county's pension plans for its employees. As part of its duties, it may contract with investment management companies to handle the investment of the county's pension assets. The board is made up of a number of county employees and citizens. One of its former members, a recently retired county employee, is now employed as the Senior Vice President of the Plan Sponsor Relations and Investor Training Section of the Investment Management Division of the Information Management Network ("IMN"). This company organizes investment management conferences. Its goal is to provide education and networking opportunities between the "buy side and the sell side communities". Specifically, the IMN holds conferences that

are not just about learning, they are also an excellent opportunity to meet existing and potential clientele generating new business relationships and networking possibilities. IMN conference venues and activities are carefully chosen to ensure an atmosphere conducive to both learning and networking.

Each conference is sponsored by a number of corporate entities who essentially pay for the conferences. At the "Asset Allocation Summit" held by IMN in April of 2002, the two largest corporate sponsors included a large law firm specializing in class action litigation on behalf of investors, consumers, small businesses and the public, and an investment management company specializing in institutional assets. The ten other corporate sponsors included a majority of investment management firms as well. There were also a number of media sponsors.

In 1998, the ethics commission issued advisory opinion 98-31, addressing the question of whether trustees of the county's Retirement and Pension System Board could accept gifts of transportation, lodging, meals and entertainment to attend and speak at conferences held by different organizations. The ethics law permits acceptance of these types of "reasonable expenses" paid by a controlled donor in exchange for the employee's participation as a speaker at a conference. §3-106(c)(4).

The opinion discussed two separate conferences. One conference was being held by the Institute for International Research (IIR) and the other one was being held by the IMN. Both organizations are in the business of holding conferences. They are not controlled donors with respect to the Anne Arundel County government. The IIR conference, "Understanding Investment Policies and Guidelines" was paid for by IIR, and ultimately, the attendees. The IIR spokesman said that corporate sponsorship was generally the norm for larger and more established conferences. The second conference, offered by IMN, was the "Third Annual Police and Fire Pension Funds Summit." This conference had several corporate sponsors, including a number of investment management firms. Although neither IIR or IMN are controlled donors with the county, many of the investment firms sponsoring the conference would have been interested in doing business with the county, specifically, having some pension management contracts with the county.

The ethics commission concluded that since the sponsors paid the bills for the IMN conference, the gift of travel and lodging expenses would be gifts from a controlled donor, but that the IIR gift would not be from a controlled donor. Retirement board members were therefore permitted by law to accept the gift from IIR. However, as to the IMN conference, the ethics commission concluded that the gift could

not be accepted because the conference was primarily a marketing initiative (seven of the thirteen corporate sponsors were listed as speakers at the conference) and was therefore designed to impair the employees' impartial and independent judgment. See also, AO-98-24.

In the present case, the gift of the registration fee waiver is not necessarily being offered in exchange for a speaking engagement. The members of the Retirement board who would be attending the conference would not be speakers, so §3-106(c)(4), permitting acceptance of gifts of reasonable travel and conference expenses for speaking engagements would not apply. The issue is whether the fee waiver is a non-permissible gift because it is for more than a nominal value under §3-106(c)(3). The answer to this question depends on whether the offer is being made by a controlled donor - whether the IMN conference sponsors would be controlled donors. If the gift is offered by controlled donors, it may not be accepted, because the conference fees are in excess of \$25. (The registration fee for a conference held in April was \$395.)

Since your letter did not address any specific conference except for one that occurred in April, the ethics commission is unable to determine whether the trustees on the retirement board may accept the fee waiver for any particular conference. Because each conference is different and may have different sponsors, the advice as to acceptance of a waived registration fee would depend on the circumstances of the individual conference. In general, the retirement board members should be advised that members may not accept a waived registration fee for any conference where the sponsors: 1. are doing business or seeking to business of any kind with the county; or 2. have 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 retirement board members.

For example, institutional investment management companies would certainly like to do business with the Anne Arundel County Retirement and Pension System. Since the companies are sponsoring a conference, they are arguably "seeking to do business with the county". It is the sponsors, through IMN, that are the donors of the fee waiver. Therefore, in this case, the fee waiver would not be a permissible exception to the gift prohibition on §3-106(b).

The ethics commission would be glad to review a particular conference with you - in advance of the conference- to determine whether a fee waiver for that conference would be a permissible gift. In the meantime, I hope that this letter adequately addresses your general inquiry.

Sincerely,

Betsy K. Dawson
Executive Director