

**Advisory Opinion 2010-3**  
**Response to a Request for an Advisory Opinion**  
**from Representative Frank R. Holden**  
**(May 17, 2010)**

**Please Note: For clarity, references to and excerpts from provisions of statutes or the Ethics Guidelines have been updated to conform to subsequent changes in numbering and language, where the changes have not affected the substance of the Opinion.**

Representative Holden has requested an Advisory Opinion whether, consistent with applicable statutes and the Ethics Guidelines, it would be permissible for him to accept an award of hotel accommodations and airline tickets as a result of a drawing for which he qualified in attending an event at a commercial sports facility.

According to information provided to the Committee by Representative Holden, the event he attended was at New Hampshire Motor Speedway and he attended as a general admission patron, not as a legislator or in connection with any legislative event.

Relevant provisions of statute and the Ethics Guidelines are:

RSA 14-C:3, III, which provides in part: "It shall be unlawful for any legislator... to solicit or to knowingly accept, directly or indirectly, any gift, as defined in this chapter, or to fail to meet the reporting requirements of this chapter."

RSA 14-C:2, IV(a), which includes in the definition of "gift," "(1) Money in any amount, whether in the form of cash, check, or any other negotiable or non-negotiable instrumentality for the transfer of money.

(2) Any other tangible thing, intangible thing, service, or the use thereof having an individual value of greater than \$50.

(3) Multiple tangible things, intangible things, services, or the use thereof having an individual value \$50 or less with an aggregate value greater than \$250 from any single source during any calendar year."

RSA 14-C:2, IV(b)(6), which states in part: "Notwithstanding subparagraph (a), "gift" shall not include\*\*\* any tangible or intangible thing or service of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or tangible or intangible thing or service of economic value would have been given and received even if the person were not a legislator or legislative employee."

Ethics Guidelines, Section 4, Permitted Activities; Permitted Gifts, Paragraph 1, which states in part: "Nothing in section 3, Prohibited Activities, shall be construed to prohibit the following\*\*\* (h) Acceptance of anything permitted to be accepted pursuant to RSA 14-C."

We advise as follows: Under the circumstances Rep. Holden has described, accepting the items would not constitute acceptance of a prohibited "gift." On the facts, he was attending the event as a private citizen, was a paid general admission patron, and qualified for the award under the same circumstances as any other patron of the event would have qualified. Proceeds of the drawing he has described would not be a prohibited "gift," because based on the facts he supplied, they would qualify for the exemption provided under RSA 14-C:2, IV(b)(6) and therefore are permitted to be accepted under RSA 14-C.

We appreciate the opportunity to be of assistance.

Martin L. Gross, Chairman  
For the Committee