

Office of Government Ethics

86 x 16 -- 11/28/86

Letter to an Employee dated November 28, 1986

In conversations with [an attorney] of this Office, [a member] of your staff has requested guidance on your behalf with regard to the public disclosure requirements for gifts which may be received as a result of your impending marriage. While we understand that [your General Counsel's] Office is providing you with information on a number of issues which may also include the disclosure procedures regarding gifts, [the member of your staff] specifically wished to receive guidance on this issue from this Office as well. If you have questions regarding the acceptability of certain gifts, you may wish to address those specific questions to the Solicitor who can certainly consult with this Office if he wishes.

First, sections 202(a)(2) and (e)(1)(B) of the Ethics in Government Act of 1978 (the "Act"), set forth the basic reporting requirements for gifts given to a reporting individual and that individual's spouse. These provisions require the disclosure of gifts given for any purpose, including a marriage, unless a waiver is sought from this Office. In the case of reporting individuals who have married while serving in positions requiring the incumbents to file public financial disclosures, we have traditionally suggested that they consider requesting a waiver of the public reporting requirements for such gifts pursuant to section 202(a)(2)(D). The information contained in the request is not disclosed publicly if the waiver is issued, but the fact that we have issued the waiver becomes a part of the public record and is attached to the individual's public financial disclosure report. In anticipation that you might wish to request such a waiver, this letter sets forth the basic requirements.

The procedures for securing a waiver are set forth in 5 C.F.R. § 734.303(g)(2), a copy of which is enclosed for your reference. Generally, you will need to submit a written request to this Office which sets forth (1) the identity and occupation of the donor; (2) a statement that the relationship between you and the donor is purely personal in nature; and (3) a statement that neither the donor nor any person or organization for whom the donor actually works or serves as a representative conducts

business with, or is subject to regulation by, or is directly affected by action taken by the [agency]. Because the activities of the [agency] are so broad, you may not always be able to make the statement required in Point 3 without qualification. In those cases requiring qualification, please discuss any official role you have which directly affects the donor or any organization for which the donor works or serves as a representative.

In determining which gifts will have to be disclosed and therefore the ones for which you might wish to seek a waiver, you should first aggregate all gifts from any one source which have a fair market value of \$35.00 or more. When any one source has given you \$250 or more of such gifts in the form of transportation, food or lodging, or \$100 or more of all other kinds of gifts, then the source and the gifts must be disclosed. For example, if Mr. and Mrs. Doe gave you a gift valued at \$50.00 for your engagement and another valued at \$60.00 for your wedding then you would need to apply for a waiver for these two gifts because their aggregate value exceeds the \$100 threshold. However, if instead they gave you one gift valued at \$90.00 this need not be disclosed and you would not need to apply for a waiver for that gift. We are enclosing a copy of 5 C.F.R. § 734.301(c) which gives more detailed examples.

Gifts from certain designated relatives are specifically excluded from disclosure by statute. Under the exclusion, gifts from your fiancée as well as certain of her relatives who will be related to you by virtue of the marriage are exempt from disclosure.¹ The disclosure requirements also apply to gifts given to a spouse of a reporting individual when the gifts are given because of the relationship of the spouse to the reporting individual. If you have any questions about this aspect please contact us.

You may request the waiver at any time prior to the requirement that you file a public disclosure listing the gifts. Unless you leave your position with the Government prior to May 15, 1987, your next public disclosure will be due on that date. That report will require the disclosure of gifts received during the calendar year 1986. You could, therefore, request the waiver for that report at any time after January 1, 1987 but prior to May 15. That means, however, that should you receive any additional gifts during 1987, you will need to request an additional waiver in 1988. To avoid the second request, we suggest that you wait until near May 15 and request a waiver for

all gifts received to that date. Practically, this should avoid a second request. Further, a copy of the waiver can then be attached to your CY 1986 and CY 1987 reports when filed.

Sincerely,

David H. Martin
Director

1 A "relative" is defined by the Act as "an individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual." (Section 209(2) of the Act).