



A Question of Ethics

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Gifts, Gifts, and More Gifts...

Several people have spoken to me about the problem of court staff accepting gifts from private individuals. I have resisted writing about this topic, because my view has been “what part of the word ‘no’ don’t you understand?” Some of you, however, have persuaded me that this topic is ripe for discussion.

Usually, I discuss a single scenario. This time though, I thought we might have a more lively discussion by reviewing a series of short scenarios on the issue of accepting gifts from court administrator Bob’s court.

The Scenarios

Attorney Lance Albright gives Louise, the civil calendar clerk, a \$49.95 watch as a Christmas present for assistance she provided him throughout the year. The state ethics statute prohibits public employees from accepting gifts of \$50 or more in value.

Albright brings in a large box of expensive candy for the entire civil division. Albright does not designate the candy for anyone specifically in the office. Since staff have received neither a cost of living nor a merit increase in three years, Ed, the civil supervisor, sees no harm in giving his staff a little “perk” for their hard work throughout the year; he lets them devour the candy.

Albright delivers a box of candy to Presiding Judge Goodfellow who refuses the candy himself, but turns it over to Bob. Bob first thinks of returning the candy to Albright but opts to donate

it to a local homeless shelter and writes a letter asking Lance not to present gifts to court staff and judges.

Dolores, a title company representative, and Ed, the civil division supervisor, are both single and have dated for over a year. Ed and Dolores regularly eat lunch at a local deli about a block away from the courthouse. Dolores always pays for lunch.

Zack, a criminal division clerk, calls into a local radio station and guesses the location for the “secret treasure box,” winning a trip to New Orleans. Responding to the disk jockey’s questions, Zack announces on the air that he is at work at the courthouse, forgetting in his excitement to state that he is on his break.

Kim, Judge Farhill’s courtroom clerk/secretary, takes a trip to the Orient. Upon her return, she presents Judge Farhill with an expensive silk tie. The judge is uneasy accepting such an expensive gift, but Kim becomes distressed. Kim says it is her native country’s custom to present gifts to “those in positions of esteem and honor.” So as not to offend Kim, Judge Farhill accepts the tie.

Judge Farhill gives Kim a bouquet of flowers for National Secretaries’ Day. Kim accepts the flowers without a second thought.

I asked James Boatner, trial court administrator for Linn and Benton counties in Oregon, Jeffery D. Amram, court administrator for the Clark County Superior Court in Vancouver, Washington, and Marcus Reinkensmeyer, deputy court ad-

ministrator for the Maricopa County Superior Court in Phoenix, Arizona, to give their opinions on the issues presented in these scenarios.

Lance Albright’s watch for Louise:

Marcus, Jim, and Jeff all saw accepting the watch as unethical. Jim thought receiving a gift worth any amount implied that Louise would give special attention to Lance’s court business in the future. Jeff felt that, although Louise had not violated the letter of the law, she violated its spirit; the gift would remind her of Lance’s generosity every time he needed a break. Marcus thought the scenario violated the NACM Model Code of Ethics, Article I, Section A, in that the public might perceive Louise as using her position to secure unwarranted privileges, and Article IV, Section H, in that accepting the watch could reflect adversely on the court.

Albright’s box of candy for the civil division:

Even though the civil division probably could not be “bought” for a mere box of candy, Jeff believed the gift subtly tilted the balance in favor of Albright. Jim felt the supervisor was walking a thin line and should not have accepted the gift.

Marcus thought both this scenario and the previous one violated several of the NACM model code sections including Article I, Section B, prohibiting clerks from accepting gifts with the under

Continued on p. 50.

The Ten-year Horizon

Continued from p. 40

- Inventory existing technology-based enhancement projects for distribution to all courts.
- Sponsor education programs via satellite.
- Develop model courts of the future.
- Provide technical assistance on the grant process as well as pay the expenses.

Finally, what about the costs of technology?

Courts should be wary. They should determine how much technology is enough, narrowing the

focus and keeping to high priorities. Courts must assess the effect of technology on customers, on processes, and on service. They must develop training. Courts should not forget that technology is evolving but has effects on facilities and staffing as well as on continuing education. Funding, always a challenge, could be handled through user fees and surcharges, as two examples. New equipment and upgrades should be included in contracts. Other forms of technology that arise from basic data systems include holograms,

kiosks, imaging, the Internet, and interactive voice response (IVR). Courts might institute public education campaigns through cable television.

As this brief summary of the group discussions shows, technology is a wide-reaching concern, with both benefits and pitfalls. The courts and NACM, however, have before them a golden opportunity to lay the groundwork for the future by addressing the issues early and effectively. **CM**

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Continued from p. 5

standing that their official actions might be influenced. On the other hand, Jeff did not see that Albright had reached an understanding with any court staff, and saw this as a potential flaw in the NACM code, in that accepting gifts is only unethical if the acceptance goes along with an understanding of influence.

Albright's box of candy for Judge Goodfellow:

Jim and Jeff believed that the judge acted reasonably, and that Bob's decision to give the candy to a homeless shelter was appropriate. Marcus, however, brought up the question of why should the candy go to one charity as opposed to another and concluded that returning the candy to Albright would have been the wiser move.

Ed and Dolores's deli lunches:

Jim saw Ed and Dolores's lunch as personal, having nothing to do with their professional relationship; Jim could not see how one could reasonably perceive their lunch as "buying" favor. Marcus did see a potential for

favoritism and advised the two to "trade off" buying lunches making the arrangement reciprocal. Marcus also felt the lunches might violate the NACM Code Article I, Section C, in that Ed's court work might be affected by his relationship with Dolores.

Zack's radio station guess:

Although the incident was inappropriate and reflected poorly on the court, Jeff and Jim did not think winning the contest was unethical. No one gave Zack the trip expecting any favor in return. Marcus, however, pointed out that calling the radio station could further the public's misperception of government workers' having nothing to do. Further, Marcus believed Zack violated the NACM code Article I, Section E, by not judiciously using court resources (that is, the telephone).

Kim's silk tie for Judge Farhill:

Jeff and Marcus both commented that Judge Farhill might have violated the judicial canons by accepting the tie. Jeff, however, thought that a common sense view showed the judge's rightful con-

cern with not damaging the employer-employee relationship. Jim recommended that, as difficult as it might have been, the judge should have told Kim the gift was inappropriate.

Judge Farhill's flowers for Kim:

Jim, Jeff, and Marcus all thought Judge Farhill giving Kim flowers was normal and acceptable. The gift was part of a national custom (albeit one started by greeting card companies), and one could not reasonably conclude the judge as currying Kim's favor. The gift was going down the chain of command, not up.

My thanks to Jim, Jeff, and Marcus. Accepting gifts bears directly on several core ethical values, public officials' obligation to use their power only in the public interest, to be fair, to exercise objective judgment free of conflict, and to safeguard the public's confidence in the government. I now understand that the gift giving issue is more complex than I first realized. I hope you also have gained insight from this discussion. **CM**