



ALAN WILSON  
ATTORNEY GENERAL

March 29, 2011

The Honorable Bakari Sellers  
South Carolina House of Representatives, District 90  
P.O. Box 428  
Denmark, SC 29042

Dear Representative Sellers:

We received your letter requesting an opinion of this Office concerning several South Carolina statutes which govern lobbying activities. Based on your letter, I believe your question is whether S.C. CODE ANN. § 8-13-705 applies in situations where the requirements of S.C. CODE ANN. § 2-17-90 have been met. This opinion addresses relevant statutes, prior opinions, and statutory construction.

#### Law/Analysis

As you noted, generally South Carolina law prohibits a public official or public employee from accepting "lodging, transportation, entertainment, food, meals, beverages, or an invitation to a function paid for by a lobbyist's principal," with specifically delineated exceptions. S.C. CODE ANN. § 2-17-90(A). However, this prohibition does not apply when the public official or public employee "pays for his lodging, transportation, entertainment, meals, food, or beverages . . . [or] pays the face value of a ticket to attend a ticketed event sponsored by a lobbyist's principal when the ticketed event is open to the general public." S.C. CODE ANN. § 2-17-90(F). Additionally, as stated in your letter, S.C. CODE ANN. § 8-13-705(A)(1) makes it a felony for a person to "give, offer, or promise anything of value to a public official, public member, or public employee with the intent to: (1) influence the discharge of [his or her] official responsibilities." In the same vein, § 8-13-705(B)(1) states that a "public official, public member, or public employee may not . . . knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value . . . in return for being: (1) influenced in the discharge of his official responsibilities."

S.C. CODE ANN. § 8-13-705, which essentially prohibits bribery, is obviously a separate statute from S.C. CODE ANN. § 2-17-90. The two statutes are not inconsistent and each stands alone. Accordingly, mere compliance with S.C. CODE ANN. § 2-17-90 does not, in and of itself, ensure compliance with S.C. CODE ANN. § 8-13-705. See State Ethics Commission Op. A092-039 (provision of coffee break or meal by vendor to all participants at show does not violate Ethics Reform Act **unless** given to influence the recipient) (emphasis added). The determination of whether a violation of S.C. CODE ANN. § 8-13-705 has occurred turns on the facts of the particular situation at issue. See State Ethics Commission Op. A092-039 (whether acceptance of "thing of value" is a violation of § 8-13-705 depends on circumstances of offer or receipt of same). Your letter does not present a specific factual situation, and this Office cannot determine facts. (E.g., Op. S.C. Att'y Gen. (April 6, 2006)) Moreover, as you know, the House of

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Representatives Ethics Committee is the designated appropriate supervisory office under the Ethics Act for State representatives. See S.C. CODE ANN. §§ 8-13-510 *et seq.* Accordingly, as that Committee is charged with supervisory enforcement of the Act, we would defer to its findings on the propriety of the activities of House members.

**Conclusion**

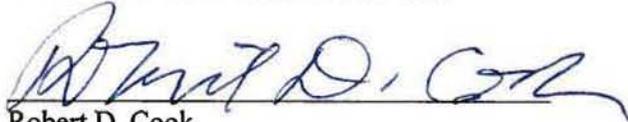
Compliance with the requirements set forth in S.C. CODE ANN. § 2-17-90 does not necessarily immunize one from a violation of S.C. CODE ANN. § 8-13-705. Rather, whether a violation of § 8-13-705 has occurred necessarily depends on the specific factual circumstances of the situation at issue.

Very truly yours,



ElizabethAnn L. Felder  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General