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THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 95-004
March 15, 1995

Syllabus by the Committee:

The value of each racing pass distributed by the Ohio State Racing Commission exceeds seventy-five dollars and therefore the Ohio State Racing Commission must be disclosed as a source on the member's Financial Disclosure Statement filed pursuant to R.C. 102.02.

The Joint Legislative Ethics Committee has received a number of inquiries relating to the value of racing passes distributed by the Ohio State Racing Commission. Acting on its own initiative, the Committee will answer the following question: What is the value of each pass distributed by the Ohio Racing Commission?

In the past, and during 1995, the Ohio Racing Commission has distributed passes to members of the General Assembly. Each pass allows the recipient to gain free admission to any racing park in the state for an unlimited number of times.

R.C. 102.02(A)(7) requires disclosure of the source of each gift of over seventy-five dollars received by a member of the General Assembly or of each gift of over twenty-five dollars if received from a legislative agent. The value of a racing pass is not readily apparent from the

face of the pass since the pass is not sold for a certain dollar amount. It is the opinion of this Committee that where the value of an item, such as a pass, is not apparent, its value is determined by its potential use, not the actual use of the item. Therefore, in determining the value of each racing pass, it is the potential use of the pass, not the actual or average use of the pass that determines its value. Since each pass allows unlimited admission to any race track on any race day for the entire racing season, the potential value of each pass exceeds seventy-five dollars. Accordingly, since the value of each pass exceeds seventy-five dollars, the Ohio State Racing Commission must be disclosed as a source of a gift on the member's Financial Disclosure Statement. Furthermore, the Racing Commission must be disclosed as a source whether or not the pass was used and whether or not the pass was given away.

Additionally, the Committee advises the member that divisions (D) and (E) of Section 102.03 of the Revised Code prohibit a public official or employee from accepting, soliciting, or using his position to secure anything of value that is of an improper and substantial character.

Therefore, it is the opinion of the Joint Legislative Ethics Committee, and the members and employees of the General Assembly are so advised, that the value of each racing pass distributed by the Ohio State Racing Commission is in excess of seventy-five dollars. Therefore, if a member has received at least one pass, the Ohio States Racing Commission must be listed as a source of a gift on the member's Financial Disclosure Statement filed pursuant to R.C. 102.02. The Racing Commission must be disclosed as a source whether or not the pass was used or whether or not it was given away.

This Advisory Opinion is based on the facts presented. It is limited to questions arising under Chapter 102, and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

A handwritten signature in cursive script, reading "William G. Batchelder".

William G. Batchelder, Chairman
Joint Legislative Ethics Committee