



Office of the Public Auditor
Commonwealth of the Northern Mariana Islands
Website: <http://opacnmi.com>
1236 Yap Drive, Capitol Hill, Saipan, MP 96950

Mailing Address:
P.O. Box 501399
Saipan, MP 96950

E-mail Address:
mail@opacnmi.com

Phone: (670) 322-6481
Fax: (670) 322-7812

MEMORANDUM

DATE: June 3, 2015

FOR PUBLIC RELEASE PURSUANT TO 1 CMC § 8561(j)

FROM: George Hasselback, Esq., Director of Investigations, Investigations Division,
CNMI Office of the Public Auditor

Signature: _____

Date: 6/3/2015

REVIEWED BY: Michael Pai, Public Auditor, CNMI Office of the Public Auditor

Signature: _____

Date: 6/3/15

Subject: Government Ethics Code Advisory Opinion

On June 2, 2015, the CNMI Office of the Public Auditor (“OPA”) received a request for an advisory opinion as to whether a particular set of facts would constitute a violation of the CNMI Government Ethics Code Act of 1992 (“the Ethics Act”) or other part of the CNMI Code generally. While OPA is empowered to offer advisory opinions under the Ethics Act by statute,¹ it is not authorized to offer general opinions regarding the potential illegality of certain actions under other sections of the CNMI Code. Therefore, this opinion will be confined to whether or not the particular facts as presented in the aforementioned request would, or would not, constitute a violation of the Ethics Code.

The fact pattern as presented to OPA involves an invitation by a person either “contracted by or funded by” a large corporate entity that does business in the CNMI in an emerging field that is heavily regulated by both statute and administrative regulation.² This invitation was extended to the members of the CNMI Legislature, both “House and Senate.” This invitation was to “join [the inviting person] and his group to go to Singapore to explore Integrated Resorts; their makeup, operation and benefit.” Furthermore, the party extending the invitation (according to the party requesting the opinion), “will be paying for the trip.” Specifically, the party requesting the opinion “will not be paying for the airfare nor hotel.” The invitation specified that the trip would begin on Friday, June 5, 2015 and conclude with the return to the CNMI early the following week. Given the immediacy of the invitation, the party seeking this opinion has requested it issue as soon as practicable.

¹ 1 CMC § 8561(j)

² Given that OPA is authorized to “render advisory opinions ... based upon a real or hypothetical set of circumstances,” the facts as provided by the requesting party have been assumed to be true for the purposes of rendering this opinion. No independent investigation into the veracity of the facts presented has been undertaken.

The party seeking this advisory opinion was specifically concerned with whether their acceptance of the aforementioned invitation would constitute a “kickback or paid commission” due to this person’s former involvement with the regulation of the particular industry in question. However, these facts raise more significant concerns than whether or not the particular party seeking the opinion would violate the Ethics Act by accepting the aforementioned invitation. In fact, the facts as presented would constitute clear and unambiguous violations of the Ethics Act by any member of the Legislature that accepted the invitation as proffered.

Specifically, CNMI law states unequivocally that a “public official ... shall not solicit or accept anything of value, or the promise of anything of value, from ... [a] person regulated by ... the government entity that the public official ... serves.”³ Here, the representative of a CNMI business entity, that would be considered “a person,”⁴ has offered members of the CNMI Legislature a “gift” in the form of airfare and accommodations in Singapore for several days.⁵ Furthermore, considering that the CNMI Legislature regulates (via statute) the conduct of the corporate entity that has extended the offer of the gift (via its aforementioned representative), acceptance of this gift of airfare and accommodation at the expense of the corporate entity would constitute a clear violation of the Ethics Act. Such a violation would justify a prompt and thorough investigation with a recommendation for criminal and civil action as appropriate.

In conclusion, it is the opinion of OPA that acceptance of the invitation as described would constitute a violation of the Ethics Act and expose any persons so accepting to potential criminal and civil liability.⁶

³ 1 CMC § 8551(d)(1).

⁴ 1 CMC § 8503(j).

⁵ 1 CMC § 8503(g).

⁶ A previous draft of this memorandum was disclosed to a limited number of persons. It is to be disregarded, as this memorandum represents the final opinion of OPA.