

Ethics lights the way to good government

The Ethical Times

A Publication of the New York City Conflicts of Interest Board

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Raffles

By
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For the most part, in the Ethical Times we like to focus on giving our readers practical advice for common scenarios. But with this month's column, I'm going to take a different tack and discuss an unusual situation: raffle prizes connected to your City job. While opportunities to enter a raffle come up from time to time in City service, they aren't that common – and, of course, winning is even less common. In addition, the rules on raffles are complex, so there is little bright-line guidance to offer. But, precisely because raffles are a tricky topic, they provide an interesting and unique window into the City's gift rules. And, hey – you never know when you might get lucky and need this column!

Raffles occur at many types of events that might be connected with a City job, from industry expositions and fairs, to not-for-profit gala fundraisers, to professional conferences, and there are a few conflicts of interest rules that address these types of situations. First, there is the well-known \$50 gift rule, which prohibits New York City workers from accepting any gift or series of gifts worth \$50 or more within any 12-month period from a person or company doing or seeking to do business with the City. If the host of a raffle is a company doing business with the City, a prize worth at least \$50 might violate this rule. For instance, the Board has told a City employee that he could not accept a CD player as a raffle prize because the host planned to bid on a City contract. (Yes, a valuable CD player. This was the '90s.) The employee was, however, allowed to accept the prize as a gift to the City, by turning the prize over to his City agency to be used for a City purpose.

However, while the \$50 gift rule is important, for the most part raffles are analyzed according to another conflicts of interest rule. The 'misuse of position' rule prohibits us City employees from *using our City positions* to obtain any benefit, including a gift or a prize, for ourselves, our family members, or our financial associates. This means that if our City position is *the sole reason* we receive a gift, even a gift from someone we've never met or who does no business with the City, and even if the gift is under \$50, then we cannot accept the gift.

In cases where there's a clear appearance that the opportunity to win the prize is the result of your City position, you almost certainly cannot accept the prize. For instance, if you're a high

-ranking official about to decide on a City contract, the raffle host is a vendor bidding on that contract, and you receive a free ticket for the raffle as part of complimentary attendance at the raffle event in your official capacity, you could not accept the raffle prize.

Conversely, if there is clearly no connection between your winning the prize and your influence as a City official, you probably can accept the prize. The Board recently told a City employee that he could accept a raffle prize of an iPad he won at a conference, even though he was representing his agency at the conference. The event was hosted by a professional association of peer public servants, the winner had no real power to benefit the hosts or other attendees, the association had no City business dealings, and the winner had purchased the raffle ticket *with his own funds*. In this case, it was reasonably clear that the prize was awarded randomly, and not because of the winner's City position.

There is a whole lot of gray area in between these two examples. Numerous variables could affect the Board's determination of whether you 'misused your position' to obtain the raffle prize, including who purchased the raffle ticket, who hosted the event, and the purpose of the event. And, as mentioned above, the \$50 gift rule might come into play as well. Because the rules are complex, you should contact the Board or your Agency Counsel before accepting a raffle prize.

That being said, there's really no harm in entering a raffle, even if you're not quite sure what the Board would say. If you win, in the best case scenario you'll be allowed to keep a nice prize. In the worst-case scenario, you'll have to turn the prize down, but you won't have violated any rules by entering. And, assuming the prize is something that would be useful to your agency, you can always accept your winning prize on behalf of the City, and turn it over to be used for a good City purpose – still a happy ending.

The only way you'll know the answer for sure is to call the Board, so reach out at (212) 442-1400 for free legal advice. All calls are confidential, and you may call anonymously. In the meantime, ponder these raffle rules to keep your knowledge of the conflicts of interest law fresh. Good luck!

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Recent Enforcement Cases

▶ A former Council Member paid a \$9,000 fine for two violations of the City's conflicts of interest law. Starting in 2003, the Council Member starting renting an apartment from a developer and property manager of multiple affordable housing developments sponsored by the New York City Department of Housing Preservation and Development; for some of the HPD-sponsored developments, Council approval was sought for designation as a Urban Development Action Area Project, which designation, among other things, would exempt the property from real estate taxes on the assessed value of the buildings for up to twenty years. The former Council Member, without disclosing his financial relationship with the developer, voted in favor of the UDAAP resolutions for three of the developer's projects in 2003 and 2006. Second, in 2008, the Council Member asked the developer about moving into a larger apartment and then selected an apartment designed for a tenant earning an income level less than what his family earned.

▶ A Principal for the New York City Department of Education agreed to pay a \$4,500 fine for: (1) living with and purchasing a home with a subordinate teacher at his school; and (2) continuing to supervise that teacher's employment for eleven months after they began living together.

▶ A Principal for the New York City Department of Education agreed to pay a \$1,000 fine for: (1) accepting a free ticket to attend a college basketball event from a DOE vendor; and (2) using his DOE procurement card, which is intended to be used only for DOE-related expenses, to purchase \$134.49 in personal food items at the event.

Congratulations! to the winner of the Conflict of Interest Board's February Public Service Puzzler contest:

Bonnie Bogdanski, a Program Manager of City Assessments at the Department of Education.

You can read Ms. Bogdanski's bio and get the details for the March Public Service Puzzler by clicking [here](#).



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Contact Alex Kipp, Director of Training, at kipp@coib.nyc.gov*

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