



2015 ETHICS TRAINING FACT PATTERN ANALYSIS COMMERCIAL LAW DEVELOPMENT PROGRAM

Khloe is a Commercial Service Officer who has been sent to the 2015 Consumer Electronics Expo in Las Vegas. The trade show sponsor, the National Electronics Organization (NEO), has provided her first-class airfare and a room at the posh Aria hotel. Actually, her office director, Brody, insisted the company pay her travel expenses as a condition of her attending.

Issue: Khloe flies first class – problem

Rule: First class air transportation is not an acceptable travel gift, unless allowed under Federal Travel Regulations (no coach seats are available within 24 hours of travel; there is a medical requirement; the employee has special needs; there are exceptional security requirements; or it is required for the agency mission).

Issue: Brody solicits the travel expenses – problem

Rule: Travel gifts cannot be solicited.

Issue: Posh hotel provided for Khloe by NEO – no problem (if it had not been solicited)

Rule: Accommodations above Federal rates can be accepted as in-kind travel gift; payments more than \$500 in excess of what is authorized under the Department's Travel Handbook must be approved by the Chief Financial Officer and Assistant Secretary for Administration. The International Trade Administration (ITA) may accept a travel gift that is not solicited if it is not from an ITA contractor or grantee or someone with interests in controversial matters before ITA.

Shortly after arriving in Las Vegas, Khloe heads to a big reception hosted by NEO, where she runs into a newly-appointed ITA Assistant Secretary, Kris, and they mingle amongst the many company officials attending to learn about the hot topics in the industry. Although the reception is pretty lavish—an open bar and plenty of high-end hors d'oeuvres—it is no substitute for dinner, so Khloe heads off to a dinner to which she was invited by Macrosoft—a company that has just released a new tablet that it is heavily promoting at the Expo.

Issue: Khloe attending a reception hosted by NEO – no problem (if approved by supervisor)

Rule: An employee may accept an invitation to a reception under the ethics rules relating to personal gifts if the event is “widely-attended” (meaning a large number of persons from outside the Government), attendees have a mutual interest but reflect a diversity of views, the event is not primarily entertainment, and the employee's supervisor determines that the employee's attendance will benefit the agency. This reception meets those criteria. However, if the employee is a political appointee, acceptance is not allowed if the host is a

registered lobbying organization (unless it is a media company or 501(c)(3) organization.

Issue: Khloe attending dinner hosted by Macrosoft – probably no problem

Rule: A meal, unlike a reception or other food or beverage provided outside a meal, provided to an employee while on travel is a travel gift to the agency. In this case it is acceptable if Macrosoft does not have a contract with or grant from ITA. The employee's *per diem* would be reduced by one meal.

The next day, Khloe meets Kris for a giant all-you-can-eat champagne buffet brunch. Learning that it was Kris's birthday, Khloe picks up the tab (she's a naturally generous person and figured it couldn't hurt to get in good with the new boss; besides, she figures that with all the free meals she'll be getting over the weekend she will get plenty of per diem money she won't be spending).

Issue: Khloe buys Kris brunch – problem

Rule: An employee cannot buy a supervisor a gift and a supervisor cannot accept a gift from a subordinate unless: the gift is \$10 or less in value or it is for a non-regularly recurring special occasion (a major life event); a birthday is not such an event.

At the trade show later that day Khloe goes to a demonstration of a new product—Goggle Glasses—a wearable internet browser/camera/smart phone. Goggle plans to put the Silicon Valley-produced product on sale to consumers within the next month and start exporting them around the world by the end of the year (as soon as the export licenses are approved). Khloe is thrilled when she gets a free sample of the Goggle Glasses, which are being handed out to everyone present. Other freebies she got on the trip included: a fruit basket in her hotel room that the Las Vegas Chamber of Commerce provided to all Expo attendees, a \$300 Sumsang smart phone from the Korean Ministry of Telecommunications, a \$200 tablet from Dill Computers, and a \$25 "We Heart ITA" baseball cap from the American Chamber of Commerce in Singapore (in anticipation of her attendance at a big trade show there later in the year).

Issue: Khloe gets Goggle Glasses as a free sample – problem

Rule: An employee cannot accept a gift from a company with interests before Commerce, unless it is under \$20 in value (not the case here); however, if an employee enters a raffle at an event that is open to the public (no invited guests, no charge for admission), the raffle prize could be accepted (not the case here); if a prize is given at a no-charge event the employee attends as an official activity, items received would be accepted on behalf of the agency as an agency gift (if acceptable under agency gift rules); if the agency paid for the employee to attend, items received would be accepted by the agency as Government property (not as a gift but as an item received for the payment).

Issue: Khloe gets a fruit basket from the Las Vegas Chamber of Commerce – partial problem

Rule: An employee cannot accept a gift greater than \$20 in value from anyone with interests in matters before Commerce or given because of her Government position (which is the case here); however, an employee can accept part of a gift that can be separated into individual parts so the employee can accept fruit up to the \$20 limit (if value of entire basket is greater than \$20); the remainder must be disposed of, which, for perishable items can be done through donation to a charity or throwing away. If this basket had been delivered to Khloe's office, disposal could have been accomplished by sharing the basket's contents with all members of the office.

Issue: Khloe gets a \$300 smart phone from the Korean government – no problem

Rule: Gifts from a foreign government may be accepted and retained as a personal gift if \$375 or less in value (gifts of greater amounts are accepted for the U.S. Government).

Issue: Khloe gets a \$200 tablet from Dill Computers – problem as a personal gift; no problem as a gift to ITA

Rule: An employee may not accept a gift of greater than \$20 from someone with interests before Commerce; the tablet is acceptable as a gift to ITA (if useable by the agency and if Dill is not an agency contractor or grantee and has no controversial matters before Commerce).

Issue: Khloe receives a \$25 baseball cap from an AmCham – problem

Rule: An employee may not receive a gift of greater than \$20 if given because of her Government position (and not because of a personal relationship); because ITA has no programmatic uses for a baseball cap, it cannot be accepted as a gift to the agency.

At the end of the day Khloe meets Brandon, vice president of PH—a big computer company—at the hotel bar (he picks up the tab). After Brandon learns more about Khloe's job at ITA, he mentions that his niece, Kourtney, is interested in working at the U.S. Embassy in Tokyo and asks if she can help Kourtney out; Khloe agrees to do the favor because he's been so nice to her.

Issue: Khloe receives free drinks from a PH official – possibly no problem

Rule: An employee may accept gifts of \$20 or less from someone with interests in matters before Commerce.

Issue: Khloe helping Kourtney get a U.S. Government job – problem

Rule: A Federal employee cannot act as someone's agent before a U.S. Government agency; a Federal employee may make an employment recommendation to a Federal official only if based on personal knowledge of the applicant's abilities, character, or qualifications.

The next day, on her own time and while on leave, she gives a lecture on the use of trade sanctions for political purposes at the College of Southern Nevada Las Vegas, for which she receives a \$5,000 honorarium. The students are impressed to be taught by a Government trade expert. Relaxing on her flight back, Khloe is very pleased with the trip=s success.

Issue: Khloe teaches a course on trade sanctions – no problem

Rule: An employee may receive payments for teaching or speaking if the subject is not about the program, policies or operations of the employee’s agency.

Issue: Use of Government title in connection with teaching – possible problem

Rule: An employee can use a Government title when teaching only if part of other biographical information.

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