

Federal Employees Risk Careers Over Freebies

By Mathew B. Tully

A cynic might say: “Nothing in life is free.” For federal employees, this statement could be especially true, considering that in some cases accepting a gift could end up costing them their jobs.

It’s easy to underestimate the gravity of the federal government’s prohibition against gifts detailed in the Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. Part 2365). That may have been the case at the scandalplagued General Services Administration, where employees reportedly accepted pricey gifts from an outside events planner tied to a lavish \$823,000 training conference near Las Vegas. According to the Washington Post, these gifts included concert tickets, flower deliveries and free hotel rooms.

It is worth remembering that federal employees have landed in hot water for accepting gifts of lesser value. Before accepting gifts, federal employees must pay particular attention not only to what is being offered as a gift, but also whom the offer is from and the potential motivations of the person making the offer.

The Standards of Ethical Conduct broadly defines “gift” as “any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.” Depending on the market value of a gift, an employee may or may not be able to accept a gift from what is called a “prohibited source.” A prohibited source could be any entity or person who wants something from the employee’s agency; does business or wants to do business with that agency; is regulated by the agency; is affected by the agency’s work; or is an organization comprised mostly of any such parties.

Employees are generally prohibited from accepting gifts valued at more than \$20 on a single occasion and may not accept an aggregate \$50 in gifts from a particular source over each calendar year. Depending on the circumstances, an employee may be able to accept a gift from someone at a prohibited source but with whom he or she has a personal relationship, according to the Standards of Ethical Conduct.

Some federal employees accept inappropriate gifts without realizing the gifts are from a prohibited source; other employees underestimate the value of the gift. For example, in *Baker v. Dept. of Health and Human Services* (1990), the U.S. Court of Appeals for the Federal Circuit upheld the removal of a Social Security Administration (then part of HHS) supervising computer specialist who revealed confidential government information and accepted a gratuitous meal from a potential subcontractor.

These offenses stemmed from a lunch the specialist had with a personal friend who had left the agency for a private sector job. The president of the friend’s employer also attended the lunch and inquired on the status of a contract the agency had put to bid. The specialist got upset with his friend over this questioning, got up to leave, offered to pay for lunch, but the other two men said they would take care of it. The specialist challenged the gratuitous meal

charge, saying the meeting was simply lunch between friends. He claimed he had no way of knowing he was having lunch with a potential subcontractor. However, considering where the two men worked and their discussion of the contract, the Federal Circuit said he should have known otherwise.

Similarly, in the Merit Systems Protection Board case of *Sher v. Dept. of Veterans Affairs* (2004), the Board upheld a 45-day suspension imposed by the VA on a clinical pharmacist who accepted free samples of Lipitor from Pfizer representatives. An agency investigation found the pharmacist had solicited and received 672 10-mg tablets of the cholesterol-lowering medication. Concurring with an administrative judge, the board found the free Lipitor samples qualified as a gift and Pfizer qualified as a prohibited source because of its business relationship with the VA.

Federal employees charged with misconduct for soliciting or accepting gifts should immediately consult with a federal employment attorney. Depending on the circumstances, a

“Great Customer Service” – C.R.

lawyer"Great customer service, thoroughly explained all aspects of my case. Thank you." - C.R.

“Cannot Thank You Enough” – R.S. and C.S.

"I cannot thank you enough for all that you did for us." - R.S. and C.S.

“Great Service” – E.S.

I want to thank you all for the great service rendered [to] myself and family. - E.S. on Client Relations Attorney Derrick Hogan

Legal Disclaimer

The results of all client matters depend on a variety of factors unique to each matter. past successes do not predict or guarantee future successes.

“High Regard” – R.E.M.

“Your firm held my best interests with high regard... I thank you for your efforts.” - R.E.M.

“Prompt and Efficient” – K.B.

“Prompt and efficient in processing claim, all correspondence handled in prompt and efficient manner.” – K.B.

“Impressed” – W.W.

“As a retired heavy user of attorneys, I’m impressed with your concerns and your efforts to stay in touch with your clients. Its damned good management aligned with top notch expertise.” – W.W.

“Excellent Service” – J.R.

“Excellent service, very professional, and understanding and considerate of clients needs. Attorney was very approachable and there was a very good comfort level.” – J.R.

“Professional & Informative” – J.H.

“Professional & informative... I was pleased with the handling of the case. I was treated as a person, and kept abreast of all aspects of the case. Thank you all.” – J.H.

“Thanks So Much” – J.D.

“Without your Firm, I would not have known of my claim. Thanks so much!” – J.D.

“Gets Results” – F.P.

“Most certainly – The firm gets results!” – F.P.

“Quite Satisfied” – R.W.

“I am quite satisfied with the services your office has provided.” – R.W.

“Exceptional Legal Services” – A.S.

“Your firm, Tully Rinckey, has provided and continues to provide me with prompt, keen, exceptional legal services. After the initial consult, I felt relieved that I had the representation from Tully Rinckey... I have found a new found hope with Tully Rinckey...” – A.S.

“Absolute Best” – R.H.

“My attorney was the absolute best I could ever have hoped for. A pure professional in every sense of the word. She was very mindful of my financial expenditure and still was able to represent me very well in my court case.” – R.H.

“Outstanding Service” – A.R.

“Outstanding service, true professional.” – A.R.

“Top Notch” – V.W.

“My attorney was top notch. Very pleasant and helpful.” – V.W.

“Ideal Choice” – D.H.

“My attorney knew exactly the approach to take and was the ideal choice. She was extremely responsive. She was clear, balanced, and open to our views and feelings. She made it clear she was there for us and ready to answer questions.” – D.H.

“Very Satisfied” – D.D.

“I was very satisfied with the services provided which were completed in a very timely and professional manner.” – D.D.

“Excellent” – B.M.

“Your Firm provides excellent & free service to federal workers and NG/USAR members.” – B.M.