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BACKGROUND, EDUCATION AND PRACTICE

Royce Poinsett is an attorney and lobbyist who guides businesses in solving their high-stakes problems at the Texas Capitol. He is principal at Poinsett PLLC.

Royce first developed his experience and relationships inside government, while serving as a policy advisor and legal counselor to Texas political leaders for over two decades. Royce eventually served as a policy advisor and legal counsel to Governor Rick Perry, and then to Speaker Tom Craddick.

Following his government service, Royce joined Baker Botts and began lobbying at the Texas Capitol for leading corporations. After almost a decade of lobbying, Royce founded the Poinsett firm in 2018 to further focus on his specialized niche of legal and lobby work.

Royce has been recognized as a “Top 20 Texas Lobbyist” by *Capitol Inside*, and as one of “20 Politically-Minded People to Know” by the *Austin Business Journal*.

Royce received his law degree from The University of Texas School of Law, where he was a member of the *Texas Law Review*. Royce is also a graduate of The Johns Hopkins University, where he was *Phi Beta Kappa*, and of the London School of Economics.

Royce is a past chair of the Legislative and Campaign Law Section of the State Bar of Texas. He is a director of The Austin Club, an alumnus of the Texas Lyceum and a past president of the board of directors of Ronald McDonald House Charities of Central Texas.

Ethical & Legal Considerations for the Legislative Lawyer

***Legislative and Campaign Law Section
Spring 2022***



Royce Poinsett

I. Ethics Law: Gifts

II. Random Musings on Civility

Ethics Law: Gifts

Cash

Meals

Entertainment

Travel & Lodging

Gift Items



Two Basic Questions:

Is it Legal?

Is it Ethical?

(How does it Smell?)



The Golden Rule of Government Ethics:

“How would this look on the front page of the Austin American-Statesman tomorrow morning?”



Gifts

General Rule:

Legislators and Staff should not solicit or accept any gift (or benefit, favor or service) that might reasonably tend to influence their official conduct, or that they suspect is being offered with the purpose of attempting to influence their official conduct.

"Don't take something in exchange for doing something."



Gifts

Possible Penalties:

- Bribery is a second degree felony, punishable by a jail term of 2-20 years and by a fine of up to \$10,000.
- Any other violation of the Penal Code gift prohibitions is a Class A misdemeanor, punishable by a jail term of up to one year and by a fine of up to \$4,000.





Alabama legislators and lobbyists indicted in bingo probe

October 5, 2010

Joseph Crosby, center, of the Alabama Legislative Reference Service, leaves the Federal Courthouse in Montgomery, Ala. after being indicted on federal conspiracy and bribery charges over buying votes for a bingo bill in the Alabama Senate.

Crosby, an analyst with the Legislative Reference Service, was indicted on charges he conspired with lobbyists in the crafting of the gambling legislation. Prosecutors contend lobbyists paid him \$3,000 per month.

Gifts



1. *Cash, Loans or Negotiable Instruments*

- Rarely an acceptable gift at the Capitol.
- Never acceptable from a Lobbyist.



Gifts



2. *Food & Beverages*

- **The "Presence Requirement":**
The giver of Food & Beverages must be *present*.
- **"Detailed Reporting":**
The recipient's name will appear on a Lobbyist's activities report if the Food and Beverages are paid for by a Lobbyist and the cost is over \$132.60*
(*set at 60% of the Per Diem for Legislators)
- There is **no annual limit** on the amount of food and beverages a recipient can receive from a Lobbyist or non-Lobbyist.

Panel to dine on lobby's dime

May 5, 2005

AUSTIN - In a move that has good-government groups crying foul, a Texas House committee chairman has elected to hold a end-of-session dinner for his committee at the posh \$4 million home of one of the state's most powerful lobbyists.

The panel deals with some of the most powerful companies in telephone, cable and electric utilities. The Austin lobbyist's clients include companies with business before the committee.

Catering for the Monday dinner comes courtesy of telecommunications companies, also with business before the committee.



K Street grumbles about an entitlement culture

An alleged sense of entitlement among some is raising hackles on K Street.

Washington, DC, June 2005

Speaking to The Hill on condition of anonymity, more than a dozen lobbyists said there are some on Capitol Hill who actively solicit lunches, drinks and other favors from K Street and seem to regard it as their personal expense account.

"Arrogance, that's what you see more of on the Hill," said one lobbyist. Examples of what K Street lobbyists object to include:

- A congressman, whose family was visiting from the Northeast, called and asked to be taken to dinner.
- A Senate staffer, who was having dinner at the Capital Grille, noticed a lobbyist across the bar, walked over to him and handed him his bill.

Gifts

3. *Entertainment*



- **The "Presence Requirement":**

The giver of the Entertainment must be present with you.

- **"Detailed Reporting":**

The recipient's name will appear on a Lobbyist's activities report if the Entertainment is paid for by a Lobbyist and costs over **\$132.60**.

- **\$500 Annual Limit**

A Lobbyist is limited to giving only **\$500** in entertainment to a single Legislator or Staffer in a calendar year.



Senators' trip to Masters in question

Company with stake in Senate bill helped lawmakers attend golf tournament

April 09, 2005

Two state senators on a committee with oversight of telecommunications and electric utility issues attended the opening day of the Masters in Augusta, Ga., on Thursday using entry badges lined up by a Dallas-based energy company.

There may be a snag if these badges were worth more than the \$300 charged. State law bars lobbyists from giving more than \$500 annually in gifts or entertainment to legislators. Tim Sorrells, staff attorney for the Texas Ethics Commission, said that if an elected official pays less than the fair market value of an item, it "raises the question of whether or not they receive a gift that exceeds the legal threshold."

A giver and recipient could be committing Class A misdemeanors.

Gifts

Gift Certificates are a No-No

Too Much like Cash

Violates the Presence Requirement



Gifts

4. *Travel & Lodging: Lobbyists*

- A Lobbyist may provide Travel and Lodging only in connection with a “***fact-finding trip***” or a ***trip to a seminar or conference***.
- The Lobbyist must be present at the event (the "Presence Requirement").
- Fact-finding trip: new restrictions have basically prohibited these, unless info “cannot reasonably be obtained” without trip.
- Seminar or conference: the Legislator or Staffer must provide services at the, such as speaking or appearing on a panel, that are "more than perfunctory" (i.e., more than hasty or superficial).
- A Lobbyist may not provide a Legislator or Staffer with Travel or Lodging for any other type of trip, for example a "pleasure trip".

Gifts

4. *Travel & Lodging*

"Pleasure Trips"

- A Lobbyist can go with you on a "Pleasure Trip", so long as you are paying for your own Travel & Lodging.
- The Lobbyist can provide the Food, Drink and Entertainment.





Lobbyists run \$12.8 million tab for lawmakers

Meals, trips buy access in Austin

Jan. 24, 2009

In the summer of 2007, a trade association spent nearly \$15,000 to send several lawmakers to the Fairmont Chateau Whistler Resort in British Columbia, Canada. The association reported spending an estimated \$3,000 apiece on the members for the trip.

In exchange for speaking, the officials each received food and beverages worth between \$450 and \$600. They also received two golf outings, each valued at between \$100 and \$150. One lawmaker who attended defended the trip as a chance for members to mix with one another and talk to industry leaders who have a stake in state policy.

Gifts

4. *Travel & Lodging: Lobbyists*

Exception for "Incidental Transportation":

A Lobbyist may pay for a Legislator's or Staffer's "transportation of incidental value" - such as a short ride in a car or taxi.



Gifts

5. *Gift Items: Lobbyists*

- A Lobbyist may give a Legislator or Staffer gifts of any value, so long as together they do not total more than **\$500** during a calendar year.
- A Lobbyist may also give a Legislator or Staffer **"Awards and Mementos"** of an unlimited total value, so long as they are worth no more than \$500 a piece.
- "Detailed Reporting":
Your name will appear on a Lobbyist's activities report if the Gift, Award or Memento is paid for by a Lobbyist and costs over **\$50**.



Gifts

How to Keep it Safe:

<i>Food & Beverages:</i>	<i>Under \$132.60 / Presence</i>
<i>Entertainment:</i>	<i>Under \$132.60 / Presence / \$500 per year to each recipient</i>
<i>Travel & Lodging:</i>	<i>Very Restricted/Check With an Expert First</i>
<i>Gift Items:</i>	<i>Under \$50 is safest/ \$500 per year to single recipient</i>
<i>Gift Certificates:</i>	<i>No</i>

Gifts

- *Is it LEGAL?*

- *Is it SMART/
ETHICAL?*



- *How would it look in the newspaper?*

Random Musings on Civility



TEXAS LAWYER'S CREED

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Preamble: A Lawyer's Responsibilities

1. A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct. ...

7. In the nature of law practice, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from apparent conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interests. The Texas Disciplinary Rules of Professional Conduct prescribe terms for resolving such tensions. They do so by stating minimum standards of conduct below which no lawyer can fall without being subject to disciplinary action. ...

11. ... The rules and Comments do not, however, exhaust the moral and ethical considerations that should guide a lawyer, for no worthwhile human activity can be completely defined by legal rules.

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Preamble: A Lawyer's Responsibilities

4. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

Rule 3.04(c)(1). A lawyer shall not ... , in representing a client before a tribunal ... "engage in conduct intended to disrupt the proceedings."

Comment 5: [T]he advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or disruptive conduct is a corollary of the advocate's right to speak on behalf of litigants.)

STATE BAR OF TEXAS - NEW LAWYER'S OATH

I, _____, do solemnly swear that I will support the Constitutions of the United States, and of this State; that I will honestly demean myself in the practice of law; that I will discharge my duties to my clients to the best of my ability; and, that I will conduct myself with integrity and civility in dealing and communicating with the court and all parties. So help me God.

Civility:
civilized conduct;
especially: COURTESY, POLITENESS

Integrity:
firm adherence to a code of moral or
artistic values



EST. 1828

Civility

=

Obeying the Law

+

Being Honest

+

Being Polite

Civility is Important Because:

It is the Right Way to Be
and

It is Good for Your Career
and

It is Good for Democracy

Honesty/Integrity

Texas Gov't Code Sec. 305.021:

FALSE COMMUNICATIONS. A person, for the purpose of influencing legislation or administrative action, may not...knowingly or wilfully make a false statement or misrepresentation of the facts to a member of the legislative or executive branch.

Honesty/Integrity

To be persuasive we must be believable.

To be believable we must be credible.

To be credible we must be truthful.

Edward R. Murrow

If you have integrity, nothing else matters. If you do not have integrity, nothing else matters.

Alan Simpson, former U.S. Senator

In Ernest Hemingway's *The Sun Also Rises*, a character in the story is asked, "How do you go bankrupt?" The protagonist responds, "Gradually, and then suddenly."

*He was so honest, you could play poker
with him over the phone.*

Lobbyist Kim Ross on
Lobbyist Tommy Townsend

2 Obstacles to Civility/Politeness:

Other People are Incivil
and

Our Clients Really Want to Win

Other People are Incivil

Hell is other people.

Jean-Paul Sartre

Other People are Incivil

[Former Lt. Governor Bill] Hobby had worked for [Lt. Gov. Bob] Bullock, and he counseled [Governor] George W. Bush about how to deal with him.

“Turn the other cheek,” he advised about the inevitable moment when Bullock would blow his lid over something or other.

“It’s just a temporary eruption. It’s a sugar imbalance. It’s whatever you want it to be. But don’t take it personally.”

From Stephen Harrigan’s *Big Wonderful Thing*

Other People are Incivil

Learning to ignore things is one of the great paths to inner peace.

Robert J. Sawyer

Political relationships are always tenuous, like a marriage in which both people are constantly contemplating adultery.

Unknown

The job of a diplomat is to keep the conversation going.

As told by a diplomat to Liz Carpenter

Other People are Incivil

*Be kind to people. There are so many of them
and so few of you.*

Unknown

*And do as adversaries do in law, strive
mightily, but eat and drink as friends.*

Shakespeare's "The Taming of the Shrew"

Our Clients Really Want to Win

In baseball, even the best have to expect to lose a third of the time. If winning every time is everything to you, find another game.

Unknown

Every now and then, Godzilla eats the city.

Rep. Jim Dunham on Republicans passing redistricting in 2003.

Civility is Good for Your Career

The ability to deal with people is as purchasable a commodity as sugar or coffee. And I will pay more for that ability than for any other under the sun.

John D. Rockefeller

Civility is Good for Democracy

Thank You.



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