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March 19, 2013

Jane Feldman, Executive Director  
Colorado Independent Ethics Commission  
1300 Broadway, Ste. 200  
Denver, CO 80203

RE: Request for Advisory Opinion

Dear Ms. Feldman:

On behalf of several employees of the Colorado Department of Law, I write to request the advice and guidance of the Independent Ethics Commission ("IEC") with respect to the following issue arising under Article XXIX of the Colorado Constitution:

ISSUE:

May several attorneys from the Colorado Department of Law accept travel expenses of up to \$810 to attend a conference on the implementation of marijuana legalization that is sponsored by a non-profit entity?

APPLICABLE LAW:

Section 3 of Article XXIX of the Colorado Constitution sets forth restrictions applicable to the acceptance of gifts by public officers, members of the general assembly, local government officials, and government employees. Subsection (2) of section 3 provides in pertinent part:

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or a thing of value given to such person's spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost of greater than fifty dollars (\$50)<sup>[1]</sup> in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services,

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<sup>1</sup> As adjusted pursuant to subsection (6) of section 3.

honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

Subsection (3) of section 3 provides that the prohibitions in subsection (2) do not apply to:

(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities.

#### BACKGROUND:

National Families in Action ("NFIA") is a 501(c)(3) non-profit organization that focuses on drug abuse prevention, education and policy. NFIA was founded in Atlanta in 1977; in 2011, the most recent year for which its tax returns are publicly available, NFIA received \$195,904 in contributions. According to NFIA's 2011 IRS Form 990, one hundred percent of its funding is from government sources.

The Annie E. Casey Foundation ("AECF") is a 501(c)(3) organization concentrating on disadvantaged children and families in the United States. It was founded in 1948. In 2011, the most recent year for which its tax returns are publicly available, AECF reported assets of over \$2.1 billion. In the same year, AECF reported more than \$250 million in revenue, the vast majority of which came from investments, dividends and interest. Although a small percentage of AECF's 2011 revenue (approximately two percent) came from private trusts and non-profit foundations, a review of AECF's 2011 IRS Form 990 reveals no contributions from for-profit companies.

In May 2013 NFIA is hosting a two-day workshop titled *But What about the Children: How Can States Protect Children from Legal Marijuana?* NFIA has invited delegations from four states in which marijuana legalization has already passed or is imminent: Colorado, Washington, California and Oregon. President Jimmy Carter will keynote the workshop, which will cover scientific, regulatory, and policy issues related to state-level legalization. Although the conference was arranged and hosted by NFIA, it is being funded by a grant from AECF. NFIA has

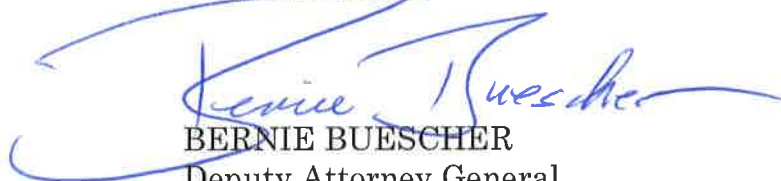
offered state delegates a stipend of up to \$810 to offset the costs of travel and accommodation while at the conference. See Exhibit 1.

As Exhibit 2 shows, NFIA has extended its invitation to public officials in each of the four states. Although the invitation was sent to Attorney General Suthers' attention, Mr. Suthers will not be attending. Rather, the Department of Law intends to send attorneys from several different sections, including Chief Deputy Cynthia Coffman. All proposed attendees will be directly involved in the implementation of Amendment 64 in Colorado. Because it will assist these employees of the Department of Law in identifying and resolving issues associated with Amendment 64, their attendance at the conference: 1) is closely related to their public duties; 2) is educational in purpose; and 3) will result in a substantial institutional benefit. Because the conference is hosted and funded by non-profit entities that have no financial or regulatory interests related to the proposed attendees' job duties, their attendance will likewise not result in a conflict of interest or appearance of impropriety.

Based on the foregoing, the acceptance of travel reimbursement for attendance at the May 2013 NFIA workshop appears to be well within the parameters identified by the Commission in Position Statement 12-01 (Travel). Nonetheless, in an abundance of caution, the undersigned hereby requests an Advisory Opinion from the Independent Ethics Commission with respect to the issues set forth above. In the event that the IEC requires any additional information, please contact the undersigned.

Sincerely,

FOR THE ATTORNEY GENERAL



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