

STATE OF NEW YORK

DAVID A. PATERSON
GOVERNOR

PETER J. KIERNAN
COUNSEL TO THE GOVERNOR

HAND DELIVERY

November 13, 2009

New York State Commission on Public Integrity
540 Broadway
Albany, NY 12207

Dear Commissioners:

You have asked for a written response providing information relating to the Governor's receipt of tickets to Game 1 of the World Series in New York City from the New York Yankees Partnership, LLC, a registered lobbyist. The issue, as I understand it, is raised by the Commission following reports from the New York Post alleging that the Governor solicited tickets from the New York Yankees inappropriately. The analysis is fact-based and a matter of first impression, to wit: whether the Governor's complimentary attendance at a sporting event of national impact and significance that generated tens of millions of dollars to the City and State is appropriate. The Governor welcomes your inquiry and review and looks forward to your guidance.

The Governor appreciates that critics insist that the tickets offered to him may be inferred to be a gift that was an attempt to influence him. However, nothing could be farther from the truth and there is no rational basis for inferring that the ticket was a gift or that it reasonably could have been expected to influence the Governor. The registered lobbyists representing the Yankees have no business before the Governor listed on their current lobbying forms. Thus, it is difficult to conclude that there was or is a conflict or appearance problem when there is nothing that the Governor was or is considering, or soon to consider with respect to the Yankees and the State.

In the summer, the Yankees offered complimentary tickets to the Governor for the anticipated playoff games. Such an offer for elected officials and others is routine procedure. On October 27th a request from the Governor's Office was made to the Yankees to secure tickets for the Governor to attend the first World Series game in the Governor's official capacity. Per the Yankees protocol, a letter also was sent from Counsel stating that the Governor would be attending in his official capacity to represent the State. Two other staff also were to attend with the Governor as well as the Governor's son and his son's friend; however, the Governor expected that the Yankees would be reimbursed for all tickets other than his.

It is estimated that each World Series home game generated a positive economic impact of about \$15.5 million according to the New York City Department of Economic Development. Reportedly, the five home games during last month's division and league championship series generated a combined \$59.5 million for the City and State. Moreover, each Yankees playoff home game generated approximately 20,000 additional subway riders, and the traditional downtown ticker-tape parade was estimated to have generated approximately \$30 million in economic activity. This infusion of economic activity during the State's worst economic crisis since the Great Depression has more than a recreational significance. It is respectfully submitted that these facts, when taken into context in your inquiry, should confirm that complimentary attendance at such an important economic event is consistent with other similarly attended major events by Governors that generate large sums for the State.

For example, Governor Spitzer attended the 2008 New Years Day "Ice Bowl" AMP Energy Winter Classic Hockey Game between the Buffalo Sabres and the Pittsburgh Penguins. Tickets were provided to the Governor and his wife to attend this sporting event in his official capacity. During the event, the Governor noted the economic benefits of special sporting events, saying, "What happens here goes far beyond the reaches of the stadium." The same can be said for World Series games, which are consistently attended by sitting Governors.

Footnote 18 in Ethics Advisory Opinion 08-01, which would prohibit complimentary attendance to those events which are primarily recreational in nature, did not apply to this matter in our opinion. Consistent with the economics generated by the World Series and the wide and diverse attendance of people at the event, this game was less about recreation and more about business for the City, the State and the Governor. Were the Governor invited to play golf or participate in some active fashion in a sporting occasion would seem to fit the recreational exception more aptly.

The Governor's attendance in support of this event always was intended to be ceremonial. Baseball remains a national pastime and a family event. I thought it is appropriate for the Governor to take his son and a friend of his son to attend with him. Two additional staff also were asked to be seated with the Governor and that is not an exorbitant number, particularly since the Governor is visually impaired. The Governor was aware that the First and Second Lady of the United States, the Mayor and former Mayor of the City as well as other members of Congress and dignitaries from across the globe also would be in attendance. This was not an ordinary sporting event and the Governor's presence at the event was meaningful due to the number of high-profile public officials attending.

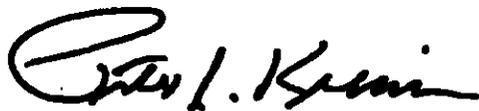
The Yankees were reimbursed immediately for the tickets provided, except the Governor's. The letter sent to the Yankees informing them of the Governor's official attendance at Game 1 was only with respect to him. No other tickets ever were expected to be complimentary, and none were.

When the Commission makes its determination, it should conclude that the facts show that this was not an attempt by the Yankees to influence the Governor, it was not in substantial conflict with the proper discharge of the Governor's duties, nor can it be reasonably inferred that

improper influence, favors or other proscribed conduct occurred. Hopefully, the Commission also will observe that at no time was there an attempt to cover up the complimentary ticket. Moreover, there is no current issue that the New York Yankees Partnership, LLC or its agents list as having business currently before the Governor. Finally, while riding in the ticker-tape parade float and attending the ceremony for the victors of the World Series at City Hall, the Governor and others could note the benefit this successful World Series has had on the morale and the economy of the City and State. The Governor has a special responsibility to promote the State. Such a role should not be lightly diminished.

Thank you for your prompt consideration. Should the Commission deem that Governor Paterson should pay for the ticket provided to him by the Yankees for the first 2009 World Series Game, he will do so immediately upon your advice.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter J. Kiernan". The signature is fluid and cursive, with a large initial "P" and "K".

Peter J. Kiernan
Counsel to the Governor