

**CITY OF MADISON  
CITY ATTORNEY'S OFFICE  
Room 401, C.C.B.  
266-4511**

November 26, 2002

**OPINION NO. 02-004**

TO: Police Chief Richard Williams

FROM: James L. Martin, City Attorney

RE: **JC PENNEY EXTRA 20% OFF COUPONS**

You have asked whether the distribution to and use by Madison Police Officers of JC Penney Extra 20% Off Coupons to "Hometown Heroes" would be a violation of the City's Ethics Code, Sec. 3.47(5)(a), Madison General Ordinances. For the reasons stated below, I am of the opinion that such distribution and use by City employees would not be a violation of the City's Ethics Code.

The JC Penney Extra 20% Off promotion as "gratitude to our Hometown Heroes" is part of a nationwide promotional campaign that includes JC Penney associates, active and retired, including family members and friends, Fire and Police personnel, teachers and educators and Penney's privileged Gold Card Customers.<sup>1</sup>

Relevant to your inquiry, JC Penney has sent approximately nine million 'Friends and Family' discount coupons to fire departments, police departments, and schools for distribution to their respective employees.

Section 3.47(5)(a)2., MGO, provides:

Influence and Reward. No person or entity may offer or give to an incumbent (City employee) or member of an incumbent's immediate family, directly or indirectly, and no incumbent may solicit or accept from any person or entity, directly or indirectly, anything of value if it could reasonably be expected to influence the incumbent's vote, official actions or judgment, or could reasonably be considered as a reward for any official action nor inaction on her or his part.

The Extra 20% Off coupon is a thing of value. However, the City of Madison's Ethic Board in an opinion dated May 20, 1997 stated:

It is the opinion of the Ethics Board that offers and acceptance of free or reduced rate passes,

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<sup>1</sup> Information received from Mr. Rudy Rosman, JC Penney's West Towne, Madison, WI

discounts on the purchase of items/services, and the like, that are made to the City of Madison for its employees do not constitute a violation of the Ethics Code if the offer is also generally extended to other employers. If, however, the offer is made exclusively to employees of the City of Madison, or is limited to a specific group or class of employees, it is the opinion of the Ethics Board that such is a violation of Madison General Ordinances Sec. 3.47(5)(a) and must be declined.

Because the “Hometown Heroes” promotion is not made exclusively to the Madison Police Department or to City employees only, I do not believe that distribution of and acceptance of the coupons would be a violation of the City’s Ethics Code. It is not reasonable to infer or conclude that receipt and use of the coupons could reasonably be expected to influence an officer’s judgment or reasonably be considered as a reward for any official action or inaction on an officer’s part as it relates to JC Penney. As stated in a letter for JC Penney’s Corporate Office dated November 25, 2002, “[r]ecipients of the coupons are under no obligation to purchase anything from JC Penney, are not required to reciprocate in any way, or provide anything of value in exchange for receiving these coupons.” The benefit that may be derived is good will toward and increased spending by Madison Police Officers at JC Penney.

James L. Martin  
City Attorney

JLM:sob

cc: City Clerk  
Susan J.M. Bauman, Mayor

CAPTION: Nationally distributed discount coupon not prohibited by Ethic Codes if used by City employees.