

CONNECTICUT STATE ETHICS COMMISSION
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ADVISORY OPINION NUMBER 78-26

Registration as a Lobbyist by a Counsel
in Bankruptcy Proceedings

Attorneys of a Connecticut law firm are counsel before the Commission on Hospitals and Health Care for rate matters concerning a number of Connecticut nursing homes. The nursing homes are assets of debtors involved in consolidated bankruptcy proceedings in the U.S. District Court for the District of Massachusetts. The trustees in bankruptcy who are in possession of the nursing homes, for the purposes of the court proceedings, with court permission have retained the law firm as special Connecticut counsel for rate matters before the Commission on Hospitals and Health Care. One of the law firm's attorneys who has been assigned responsibility to appear before the Commission on Hospitals and Health care for the nursing homes has asked the State Ethics Commission whether his representation constitutes lobbying, subjecting him to the provisions of Public Act Number 77-605. As a related matter he has asked what actions his clients, who he assumes are the court-appointed trustees, should take under the Act.

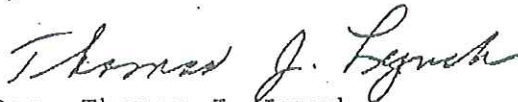
The State Ethics Commission has recently decided that participation in a rate hearing before the Commission on Hospitals and Health Care in accordance with section 19-73i(b), Connecticut General Statutes, is lobbying within the meaning of section 1(k), Public Act Number 77-605. State Ethics Commission Advisory Opinion 78-25, dated November 3, 1978. Under the reasoning of that Opinion, participation in any rate hearing before the Commission on Hospitals and Health Care would be lobbying. Therefore, the special Connecticut counsel to the trustees in bankruptcy in the instant case is lobbying. If he meets the financial threshold for lobbyists (section 1(l), Public Act Number 77-605), he is required to register and comply with the other provisions of the Act.

The trustees in bankruptcy hold title to the Connecticut nursing homes involved in the bankruptcy proceedings. They are the ones who, with court approval, reimburse the law firm for its services in Connecticut rate hearings. The supposition that the trustees in bankruptcy are the client lobbyists is correct, as "client lobbyist" is defined in section 1-92-41, Regulations of the State Ethics Commission.

An exception to the usual requirement for both the communicator and the client lobbyist to register with the Ethics Commission has been requested in this case. In justification, it is submitted that the number of trustees may be increased or decreased during the

course of the bankruptcy proceedings, and substitute trustees may be appointed from time to time. Not all the present trustees hold title to all the Connecticut nursing home represented by the special Connecticut counsel. The attorney fees attributable to a single home may not reach the level for registration. Consequently, were a single member of the group of trustees appointed to a single home, that trustee might not have to register. Maintaining with the Ethics Commission registration of those members of the changing community of trustees who meet the financial threshold could be cumbersome and might not serve any particularly useful purpose. This is an appropriate instance in which to grant an exception, as permitted by section 1-92-41, Regulations of the State Ethics Commission, to the requirement that a client lobbyist register and file financial reports. Little, if any, additional information would be available to the public if the client registered, and the possible benefits do not appear to justify the unusual burden imposed under the circumstances of this case.

By order of the Commission



Rev. Thomas J. Lynch
Chairman

Dated November 6, 1978