



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 80-19

Activities on Behalf of a Client by a Law Firm
with which a Member of the General
Assembly is Associated

A law firm with which a member of the General Assembly is associated represents a client who requires various legal services. Counsel to the law firm has described the manner in which the firm intends to act in the course of providing services to its client and has asked the Ethics Commission whether the proposed conduct of the law firm and of the legislator associated with it conforms to the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes and the ethical standards of the Commission.

The law firm plans to handle general corporate matters for its client. It will appear on the client's behalf before municipal boards, commissions, and councils, including any appearances required incident to the client's purchase of land from municipalities in the area.

The firm will not represent its client before the agencies listed in subsection 1-84(d), General Statutes. In supporting its client's activities it will refrain from introducing any legislation in the General Assembly and will not represent the client before legislative committees. The client expects that its business activities will require the introduction of a legislative proposal during the next session of the General Assembly. It wishes the law firm to conduct the research for the legislative proposal and to prepare background information and a position paper on it. Following this, the law firm would draft a model bill for possible introduction in Connecticut and other states. It is anticipated that all of the firm's work related to the legislative proposal will be completed before the opening of the next General Assembly session. The firm agrees to cease work on the matter, whether finished or not, if that be necessary when the legislature convenes. The client will have other counsel or a lobbying group introduce the bill, with no connection between the bill and the legislator's law firm apparent. The legislator will not participate in the research or preparation of the material prior to the drafting of the bill. Should the bill be introduced into the General Assembly, the legislator will abstain from voting or taking any other official action on it.

There are a number of statutory provisions, most of them in the Code of Ethics for Public Officials, applicable when a law firm, one of whose attorneys is a General Assembly member, represents its clients. The firm appears to have used commendable care in making sure that its actions not only do not violate any ethical standards but avoid any appearance of impropriety.

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The legislator is a public official under the Code of Ethics governing the conduct of public officials. Subsection 1-79(j), General Statutes. Consequently the legislator must not take official action which will have direct financial consequences for himself or herself except under the circumstances prescribed in the Code. Subsection 1-84(a), section 1-85, id. A public official may not accept employment which will impair his or her independence of judgment or require or induce disclosure of confidential information acquired in the course of official duty. Subsection 1-84(b), id. The disclosure or use, for pecuniary gain, of confidential information gained by reason of official duties is forbidden, as is use of public office or confidential information acquired therein to obtain financial gain for a public official, a member of his or her family, or a business with which the official is associated. Subsection 1-84(c), id. A public official may not represent another for compensation before certain State agencies (subsection 1-84(d), id.) and neither the official nor a business with which the official is associated may enter into a contract with the State valued at more than \$100 except under specified circumstances (subsection 1-84(i), id.). If a potential conflict of interest arises, the legislator must take the action prescribed by section 1-86, id.

One of the above provisions, concerning appearing on behalf of others for pay before certain State agencies, applies by its terms to the public official's firm as well as to the public official. Others apply to a business with which a public official is associated. Whether the legislator's association with the firm is such that it is a "business with which he is associated", as that term is defined in the Code, subsection 1-79(a), General Statutes, is of little consequence for this discussion. The Commission has determined that if the Code of Ethics for Public Officials bars a public official who is an attorney from certain activity, all attorneys in the firm are similarly barred. Ethics Commission Advisory Opinion No. 78-21, 40 Conn. L.J. No. 13, p. 11. In the instant case, if the attorney is prevented by the Code of Ethics from representing the client in some way, the firm is also, whether or not a Code provision by its terms is applicable to the public official's firm.

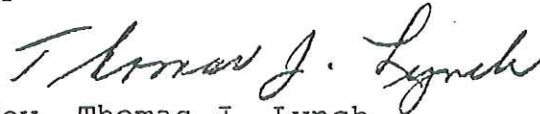
The restrictions which the firm and the legislator/associate have imposed on themselves fully satisfy the terms of the Code of Ethics for Public Officials. Observing these restrictions, a public official who is an attorney and his or her firm may engage in the practice of law. Even a public official, and therefore obviously the official's firm, may appear for compensation before municipal agencies. "Nothing in this subsection shall prohibit any employment, appearing, agreeing to appear or taking action before any municipal board, commission or council." Subsection 1-84(d), General Statutes. See also Ethics Commission Advisory Opinion No. 79-19, 41 Conn. L.J. No. 6, p. 15. There is no indication that the legislator's employment could impair his or her judgment as to official duties, or that the legislator would use his or her office improperly for financial gain of the legislator

or the firm. Indirect or inadvertent improper use of office is minimized by the fact that no connection between the proposed legislation and the legislator's law firm is revealed. Cf. State Ethics Commission Advisory Opinion No. 79-6, 40 Conn. L.J. No. 38, p. 27. The legislator is so insulated from the firm's participation in preparing the legislative proposal that there should be no danger of confidential information acquired in the course of the legislator's duties being disclosed or used. Provided the legislator can participate without using or disclosing confidential information, he or she need not be barred as completely as is planned from the process of preparing the legislative proposal. Technical expertise in legislative drafting gained in the General Assembly could be utilized. The legislator's understanding of what may and may not be accepted by the General Assembly -- information known to many, lobbyists as well as legislators, who spend a great deal of time working with the Assembly -- is available to the firm. None of the foregoing activities of the firm, or of the public official associated with it, in preparing proposed legislation would appear to be enough to make the firm or the legislator a "lobbyist" even before that term was redefined by legislation enacted in 1979. See Ethics Commission Advisory Opinion No. 78-8, 39 Conn. L.J. No. 48, p. 22. The proposed activity certainly would not make either of them a lobbyist after 1979. Now a person has to communicate with a public official with the intent to influence official action, as well as take action in furtherance of lobbying, in order to be a lobbyist. Subsections 1-91(l), 1-91(k), General Statutes. Not being a lobbyist, there seems to be no reason why the firm should have to cease its work on the legislation if it is not completed when the General Assembly convenes.

There is no inherent substantial conflict of interests in the situation described, and the legislator avoids any problems with the conflict of interests provisions of subsection 1-84(a), section 1-85, and section 1-86, General Statutes by agreeing to abstain from any official action with regard to the client's draft bill should it be introduced. This also avoids breach by the firm or the legislator of other conflict-of-interest provisions of possible applicability in the General Statutes. A legislator or other person paid by the State for services rendered or performed in Hartford may not lobby the General Assembly for another. Section 1-102, General Statutes. With exceptions not pertinent, no member of the General Assembly shall appear as an attorney before it. Section 2-16, *id.* The same reasoning which has led the Ethics Commission to conclude that, if an attorney who is a public official or State employee is barred from certain action by the Code, the attorney's firm is similarly barred would seem to apply to sections 1-102 and 2-16, General Statutes. The legislator's promise to abstain from official action on the bill affecting the firm's client and the firm's agreement to cease involvement in and allow no apparent connection to any legislative proposal once it has been drafted avoids violation of those two sections outside the Code.

In summary, the limits the law firm with which the legislator is associated has imposed upon itself and the legislator keep them both clear of any violation of the Code of Ethics for Public Officials or of other statutory provisions enacted to avoid impropriety when a public official has his or her firm furnish legal services to a client.

By order of the Commission



Rev. Thomas J. Lynch
Chairman

Dated November 5, 1980