



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-29

Application of "Business With Which Associated"
to Governmental Entities

Mr. Daniel J. Savino, Director of Program Monitoring and Fiscal Review, Department of Health Services, has asked the Ethics Commission for an advisory opinion regarding the question of whether governmental entities are excluded from the Ethics Code's definition of "Business with which...associated", and are, therefore, exempt from the open and public contracting procedures of Connecticut General Statutes §1-84(i).

"Business with which he is associated" is defined to include "...any sole proprietorship, partnership, firm, corporation, trust or other entity through which business for profit or not for profit is conducted in which the public official or state employee or member of his immediate family is a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five per cent or more of the total outstanding stock of any class. Officer refers only to the president, executive or senior vice president or treasurer of such business." Conn. Gen. Stat. §1-79(b).

By prior advisory opinion, the Commission has ruled that the statutory language "...other entity through which business for profit or not for profit is conducted..." requires that non-profit organizations (e.g., charities, museums, educational institutions, etc.) be included within the definition of "Business with which...associated" for purposes of the Code. Ethics Commission Advisory Opinion No. 90-5, 51 Conn. L.J. No. 32, p. 8C (February 6, 1990). The Commission declines, however, to further rule that the term also includes municipalities and other governmental entities. Nothing in the legislative history supports such a construction. Furthermore, no Connecticut case has held that the terms "business" and "government" are in any way synonymous. Additionally, ruling that governmental entities are businesses with which associated would require that any state grant to a Connecticut municipality, which is implemented by contract, be awarded through an open and public process,

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including prior public offer, pursuant to §1-84(i). Since the vast majority of these grants are made under statutory formula, such an application of §1-84(i) would make little sense.

Absent clear legislative direction to the contrary, the Ethics Commission will continue to interpret "Business with which...associated" to exclude governmental entities.

By order of the Commission,

Rabbi Michael Menitoff

Rabbi Michael Menitoff
Chairperson

Dated 9-10-90