



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-4

Reporting of Gifts

Ms. Patricia LeShane, a registered lobbyist, has asked the Ethics Commission a series of questions regarding the reporting, under the Code of Ethics for Lobbyists, of tickets given as gifts to a public official or a member of an official's staff or immediate family. Specifically, Ms. LeShane is seeking an interpretation of Conn. Gen. Stat. §1-96(b) which requires itemized reporting whenever a lobbyist, or a group of lobbyists, expends \$15 or more to entertain a public official in the legislative or executive branch of state government or a member of the official's staff or immediate family.

Ms. LeShane's questions are based on the following:

She and her husband, Mr. Patrick Sullivan, are the principals of Sullivan and LeShane, Inc., one of the State's largest lobbying firms. Ms. LeShane, Mr. Sullivan, and two other individuals are also the principals in a separately incorporated company, Sullivan and LeShane Public Relations, Inc. (Ms. LeShane and Mr. Sullivan own 50% of the public relations firm.) According to Ms. LeShane's request for advice, Sullivan and LeShane Public Relations, Inc. has a corporate rule that it does not provide services to any state government agency, program, or project. The public relations firm also does not engage in lobbying of state officials, but may provide media relations, advertising or public relations services to registered client lobbyists. Sullivan and LeShane Public Relations, Inc. does not provide such services to Ms. LeShane's and Mr. Sullivan's lobbying firm. However, the public relations firm has provided its services, including advertising in furtherance of lobbying, to businesses and organizations that are also clients of the lobbying firm.

Sullivan and LeShane Public Relations, Inc., in conjunction with three other businesses, has recently purchased four seats in the Coliseum Club at the Hartford Civic Center. Under the terms of the agreement, the public relations firm owns one of

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the four seats. According to Ms. LeShane, the firm has established the policy that tickets to the Coliseum Club will be used for current and potential client entertainment, employee incentives and charitable donations to community fundraising events.

Ms. LeShane has posed the following questions:

1. Under the Code of Ethics for Lobbyists, Conn. Gen. Stat. Chapter 10, Part II, and Commission regulations: a. What is the proper per ticket/per seat calculation for Coliseum Club events? b. What is the relationship and reporting obligation if one of the other three seat holders entertains a reportable individual when they use the four tickets? The other seat holders are "teamed" with Sullivan and LeShane Public Relations, Inc. for the purpose of obtaining a block of seats, but are separate purchasers of individual seats. None of the three other seat holders is currently a registered lobbyist. c. How does one calculate the value of tickets for additional Civic Center events which were not purchased as part of the basic Coliseum Club package?

2. If a public relations firm employee personally pays for a seat and gives it to a reportable individual, is this transaction reportable under the Code?

3. If a public relations firm employee is reimbursed by Sullivan and LeShane Public Relations, Inc. for expenses incurred in entertaining a reportable individual unrelated to lobbying, is it reportable under the Code?

4. If a public relations firm employee entertains a reportable individual and is reimbursed by Sullivan and LeShane Public Relations, Inc. which is in turn reimbursed by a. a registered lobbyist client or b. a non-registered client, is it reportable under the Code?

5. If a public relations firm employee spends five hundred dollars or more in a calendar year on entertainment of public officials and is reimbursed by Sullivan and LeShane Public Relations, Inc., does the employee and/or the public relations firm have to register as a lobbyist?

1.a. Under Ethics Commission regulations, the value of a lobbyist expenditure for the benefit of a public official or other reportable individual is calculated by the cost to the lobbyist, if the benefit in question (ticket, meal, etc.) was obtained by the lobbyist in a marketplace transaction.

Regulations of Conn. State Agencies §1-92-48(C)(1). The current cost per Coliseum Club seat is \$6,000 per year. Under the Club's membership agreement this annual fee entitles a seat holder to attend 100 events during the year. The cost per seat per event is, therefore, \$60.00 (\$6,000 divided by 100.)

1.b. If one of the other three seat holders "teamed" with Sullivan and LeShane Public Relations, Inc. uses the public relations firm's seat to allow a reportable individual to attend an event, the public relations firm, which paid for the seat, has made an expenditure for the benefit of the individual which triggers the Code's reporting requirement. (See the response to question 3, infra, for a full explanation of the reportability of tickets paid for by the public relations firm.)

In the Commission's opinion, the reporting of such expenditures is an unfortunate consequence, since, in actuality, a seat holder other than Sullivan and LeShane is hosting the individual. The necessity of this reporting can be eliminated, however, by having the other seat holder pay Sullivan and LeShane Public Relations, Inc., in advance or at the time of the event, for the use of its seat.

1.c. Under the Coliseum Club's membership agreement seat holders may use their seats for additional events not included in the basic package by paying the highest ticket price for the event in question. This system can lead to anomalous, but unavoidable, results under the Code and Commission regulations. For example, regular season Hartford Whaler hockey games are included in the basic package and, therefore, have a value of \$60.00. If the Whalers were to qualify for the National Hockey League playoffs, Coliseum Club members would be able to purchase their Club seats for the games at a cost of \$26.00 per seat, the highest ticket price for a seat at a playoff game. The value of the typically more desirable playoff game seat, both for the Code's reporting requirements and gift limitation, would, therefore, be \$26.00, less than one-half the value of a regular season Coliseum Club ticket.

The Commission staff has sought to devise a system to eliminate this difference in the value of basic and additional events under the Coliseum Club's membership agreement, but without success. Additional events are offered to Club members (and to Civic Center Skybox seat holders) as they are scheduled, and it is impossible to predict in advance how many such events will occur in any given year. It is, therefore, not possible to factor such events into the Club member's yearly fee. Absent a change in the Coliseum Club's membership

agreement, Club seat holders must continue to report seats on a two-tier basis: \$60.00 for events included in the basic package and the per ticket cost for additional events.

2. If a public relations firm employee, not registered as a lobbyist, personally pays for a Coliseum seat at an event and allows a reportable individual to use the seat, the transaction is not reportable under the Code. The foregoing statement assumes, of course, that the transaction in question is a legitimate one (e.g., employee dating a person who is a member of a public official's immediate family) and not a sham (e.g., registered lobbyists/owners of a firm having reached their allowed annual gift limit under §1-97(a) of the Code, fifty dollars per recipient from each lobbyist, arrange for the employee to pay for the seat as a means of circumventing the Code's reporting and gift provisions). It should be noted that in the second scenario §1-97(a), which restricts not only direct lobbyist gifts but also gifts given "...on behalf of..." a registered lobbyist to any state employee, public official, candidate for public office or member of such person's staff or immediate family, would be violated.

3. If a public relations firm employee entertains a reportable individual and is reimbursed by the firm, Ms. LeShane and Mr. Sullivan, as the ultimate payors, have made an expenditure for the benefit of the reportable individual. Specifically, as 50% owners of the firm they have made an expenditure equal to 50% of the value of the entertainment. If this expenditure by Ms. LeShane and Mr. Sullivan totals \$15 or more it is reportable in detail pursuant to §1-96(b), regardless of whether it is related or unrelated to lobbying. (Regulations of Conn. State Agencies §1-92-48(b) provides the mechanics for reporting such expenditures. Most importantly, the regulation requires that when more than one lobbyist contributes to an expenditure for the benefit of a public official, etc. the lobbyists must disclose the percentage paid by each. This information is absolutely essential, because under §1-97(a) of the Code each registered lobbyist is allowed to expend up to \$50 per person per year on gifts for those enumerated in the provision.)

If the expenditure in question is unrelated to any client lobbyist represented by Ms. LeShane's and Mr. Sullivan's lobbying firm, it should be reported on the Commission's new form, ETH-2E, promulgated for such transactions. Finally, if the total expenditure of the registered lobbyists is less than \$15 (e.g., \$26 ticket paid for by the public relations firm; Ms. LeShane's and Mr. Sullivan's 50% portion = \$13) the

transaction is not required to be reported in detail, regardless of the fact that the total cost of the ticket, \$26, is over the \$15 threshold.

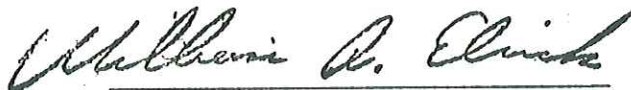
4.a. If an expenditure discussed in question 3, supra, is subsequently reimbursed by a registered client lobbyist, that client lobbyist must also report the transaction in detail pursuant to §1-96(b) whenever the client's payment is \$15 or more per person per occasion. If the expenditure in question is totally unrelated to the client's lobbying activities, it still must be reported in detail utilizing section VIII.a. of the client report form.

4.b. If an expenditure discussed in question 3, supra, is subsequently reimbursed by a client not registered as a lobbyist, that client incurs no reporting responsibilities under the Code.

It must be remembered that the fact that the expenditure is subsequently reimbursed does not relieve Ms. LeShane or Mr. Sullivan of the requirement to report the transaction in detail, if the \$15 threshold has been reached. (See Conn. Gen. Stat. §1-91(f). Definition of "Expenditure" includes "any advance" "distribution" or "transfer of funds".)

5. If a public relations firm employee spends \$500 or more in a calendar year on entertainment of public officials and is reimbursed by Sullivan and LeShane Public Relations, Inc., neither the individual nor the firm is required to register as a lobbyist, unless the individual has also engaged in lobbying as that term is defined in Conn. Gen. Stat. §1-91(k). (In essence, lobbying is attempting to influence state legislative action or executive agency rules or regulations.) Specifically, one does not become a "Lobbyist" required to register with the Commission unless in any calendar year one spends or receives, or agrees to spend or receive, \$500 or more in lobbying and in furtherance of lobbying. Conn. Gen. Stat. §1-91(1). Since, under its corporate rules, no employees of Sullivan and LeShane Public Relations, Inc. engage in lobbying, no amount of entertaining of public officials by such employees will require their registration or that of the firm.

By order of the Commission,



William A. Elrick
Chairperson

Dated 1 - 8 - 90

