

CONNECTICUT STATE ETHICS COMMISSION  
97 ELM STREET (REAR)  
HARTFORD, CONNECTICUT 06106

89-F  
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In the Matter of a Request  
for a Declaratory Ruling

James A. Wade, Esq.  
Applicant

Attorney James Wade has asked the Ethics Commission to issue a declaratory ruling as to whether Representative Vito Mazza can solicit funds to defray legal expenses he incurred in defending himself in proceedings before the Ethics Commission. Specifically, a complaint was filed against Representative Mazza by a Commission staff attorney. The Complaint alleged that the Representative had violated §1-84(a) of the Code of Ethics for Public Officials by speaking and voting on legislation when he had a substantial conflict of interest. After a preliminary investigation, the Commission found probable cause to believe that the Representative had violated the Code as alleged in the Complaint. Subsequently, Representative Mazza and the Commission agreed to a negotiated settlement of the matter. As part of the settlement, the Commission found that Representative Mazza had violated the Code of Ethics as alleged, but that the violations were not willful. The Representative was required to make a \$750 contribution to the Council on Governmental Ethics Laws (a non-profit organization devoted to the advancement of ethics in government). Additionally, the Commission ordered Representative Mazza to refrain from speaking or voting on interstate banking legislation which would directly increase the value of his stock interest in Northeast Bancorp.

If Representative Mazza had been exonerated at any stage of the proceedings, he would have been reimbursed by the State for his reasonable legal expenses. Conn. Gen. Stat. §1-82(c).

Since he was not exonerated, he is not entitled to any state payment of his legal fees.

In his request for a ruling, Attorney Wade states that the contributions in question would be deposited into a fund managed by a trustee named by Representative Mazza. Expenditures from the fund would be made only for the printing and mailing of solicitation letters and the payment of legal expenses. In particular, Attorney Wade has asked whether Representative Mazza can solicit funds from the following categories of persons: 1) fellow members of the General Assembly; 2) staff or employees of the General Assembly; 3) staff or employees of any other branch of state government; 4) registered lobbyists; 5) constituents; and 6) the general public.

Conn. Gen. Stat. §1-97(a) prohibits a registered lobbyist or one acting on behalf of a registered lobbyist from giving to a public official any gift or gifts that amount to fifty dollars or more in value in the aggregate in any calendar year. Conn. Gen. Stat. §1-84(j) prohibits a public official from accepting any gift or gifts known to amount to fifty dollars or more in value in any calendar year from a known registered lobbyist or anyone known to be acting on behalf of a registered lobbyist. Under these two provisions, Representative Mazza's legal defense fund cannot accept more than fifty dollars from any registered lobbyist or anyone acting on behalf of a registered lobbyist. Additionally, any registered lobbyist contributing \$15 or more to the fund would have to report the expenditure to the Ethics Commission pursuant to Conn. Gen. Stat. §1-96(b).

The gift restrictions only apply when the donor is a registered lobbyist or one acting on behalf of a registered lobbyist. The Codes of Ethics do not specifically limit other gifts to public officials. However, in order to avoid any appearance of impropriety or inadvertent use of office, it would be advisable for Representative Mazza also to limit to fifty dollars contributions from those persons who, although not required to register as lobbyists, are known by him to be engaged in attempting to influence legislation (e.g., municipal officials, state agency representatives, unpaid citizen advocates, etc.).

The Ethics Commission recently issued a declaratory ruling addressing the propriety of fundraising for the purpose of reimbursing a state employee, the Executive Director of the University of Connecticut Health Center, for his legal fees.

Declaratory Ruling issued August 7, 1989, John A. Berman, Esq., Applicant.

In that opinion, the Commission stated that §1-84(c) of the Code of Ethics "...is designed to prevent a public official or state employee from personally profiting by virtue of his or her official power....In order for §1-84(c) to apply there must be a demonstrable connection between the individual's official authority and the financial gain at issue. As long as...there is no such connection...[one] may accept donations for the purpose of defraying his legal expenses without violation of §1-84(c) of the Code."

In applying this criterion to the Executive Director of the University of Connecticut Health Center, the Commission ruled that he should not accept contributions from anyone he employed or supervised in his state capacity or from any person contracting with, or seeking to contract with, the Health Center.

The same basic reasoning applies to Representative Mazza's proposed solicitation of funds. He must, therefore, neither solicit nor accept contributions from those he employs or supervises in his official capacity, i.e., the staff and employees of the General Assembly. Additionally, as discussed supra, he is prohibited by Conn. Gen. Stat. §1-84(j) from accepting more than \$50 in any calendar year from a person "doing business" with the General Assembly, i.e., a lobbyist or one acting on behalf of a lobbyist.

It can be argued with a certain persuasiveness that, because of his sweeping authority as a member of the Legislature, Representative Mazza should be prohibited from soliciting or accepting contributions from any citizen of Connecticut or any entity doing business in or seeking to do business in the State. The Ethics Commission, however, declines to adopt this analysis. Such a ruling would preclude Representative Mazza from receiving contributions from even his closest friends, and would go beyond the requirements of §1-84(c). Representative Mazza may, therefore, solicit and accept contributions to defray his legal expenses from fellow members of the General Assembly, officials and employees of the executive and judicial branches of state government, constituents, and members of the general public without violation of the Code of Ethics for Public Officials.

It must, of course, be remembered that under no

circumstances may Representative Mazza use his official stationery or other indicia of public office to solicit contributions for his personal legal defense fund.

By order of the Commission,



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William A. Elrick  
Chairperson

Dated 9/11/89