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30 TRINITY STREET
HARTFORD, CONNECTICUT 06115



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ADVISORY OPINION NUMBER 78-17

Requirements for Registration as a Lobbyist

An out-of-State law firm acts as counsel to clients, doing business in Connecticut, who belong to Connecticut trade associations. The firm's attorneys advise the clients of the impact on them of proposed Connecticut legislation and regulations, advice which the clients may discuss at trade association meetings or with trade association staff. The attorneys may draft statutory language for their clients which is passed on to a trade association. The attorneys themselves sometimes attend trade association meetings to represent their clients' interests. They may present their clients' views on Connecticut legislation or regulations at a meeting, or to trade association staff.

None of the described activity of the attorneys or their clients involves communicating with Connecticut public officials or their staff to influence legislative or administrative action. This is done by the trade associations. These associations, and the individuals who lobby on their behalf, are registered with the State Ethics Commission as lobbyists. The views which the individual lobbyists present to Connecticut public officials are those of their trade associations, which may or may not be those given to the firm's clients by its attorneys or the views of the clients themselves. A trade association's position may at times be opposed to those of a client of the firm, and at other times concern matters in which a client has no interest.

The law firm has asked the Commission whether the activity described above requires the law firm, its attorneys, or its clients to register with the Commission as lobbyists.

It is unquestionable that the firm need not register. Under the concept of the act regulating lobbyists, Public Act Number 77-605, only the attorneys and the clients could be considered to be lobbyists. The law firm is not an operative factor in the situation. Ethics Commission Regulations section 1-92-46; Ethics Commission Advisory Opinion 78-6, 39 Conn. L.J., No. 43, p. 21.

Since the attorneys and clients do not communicate with Government officials or staff to influence their actions, they are not engaged in lobbying. Public Act Number 77-605, section 1(k). A "lobbyist", however, is one who in furtherance of lobbying receives, expends, or a combination of both more than a threshold amount of money in a calendar year. Section 1(1). The actions of the law firm's attorneys and clients


ceivably might be considered in furtherance of the trade associations' lobbying.

Any input of the attorneys, or of a client as one of several members, to the lobbying carried on by a trade association under the circumstances presented is indirect and minimal. The views adopted by the trade association may well be contrary to the views of a client or the position recommended to the client by the firm's attorney. Therefore, often it would be stretching the language of the statute to say that an attorney or client furthered the lobbying.

Of significance is the fact that Connecticut's statute regulating lobbyists, unlike some other such statutes, does not establish a system for looking behind a lobbying organization to identify the members who belong and contribute to the organization. Compare, for example, the Federal Regulation of Lobbying Act, 2 U.S.C. 264(a)(1). The General Assembly was certainly aware of such statutory provisions. See answers to question 6, Office of Legislative Research Selected Report 75-142, November 5, 1975. It is a normal part of most trade associations' responsibilities to lobby on behalf of their membership. The Connecticut act regulating lobbyists does not appear to be concerned about the ordinary contribution of a trade association member to the development of an association position on proposed legislative or administrative matters. Disclosure of the identity and activities of the trade association and of the individuals who lobby on its behalf seems to fulfil the purpose of the lobbying act.

Therefore, the law firm's attorneys and clients, as well as the law firm itself, are not required by Public Act Number 77-605 to register as lobbyists under the circumstances given.

By the order of the Commission,


Rev. Thomas J. Lynch
Chairman

Dated September 6, 1978