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ADVISORY OPINION NUMBER 79-16

Reporting Trust Assets in a Statement
of Financial Interests

A public official required by section 1-83(a), General Statutes, to file with the State Ethics Commission annually a statement of financial interests has asked the Commission whether certain assets held in a trust created by his spouse must be reported in his statement of financial interests. The assets formerly had been held in a revocable trust with the spouse and a bank as trustees. Beneficiaries of the trust were the public official, the spouse, and their lineal descendants. Based in part upon discussion between the Commission staff and the attorney for the spouse the trust indenture was modified in the following respects. Beneficiaries remain the same, but no beneficiary is entitled to any accounting which would reveal the assets of the trust or the sources of trust income. The trust is irrevocable during the term of office of the public official or until the public official satisfies the trustees that he has complied or will comply with the requirements of section 1-83, General Statutes, by disclosure of trust assets. The spouse has been replaced as trustee by her father. The attorney for the spouse requests confirmation that a statement of financial interests disclosing merely the existence of the trust and the names of the trustees will satisfy section 1-83(b)(1), General Statutes.

Section 1-83(b)(1), General Statutes, requires certain public officials to include in their annual statements of financial interests, for each official and the official's spouse and dependent children residing in the official's household, such financial information as "... (C) the name of securities in excess of five thousand dollars at fair market value owned by the individual or held in the name of a corporation, partnership or trust for the benefit of such individual, except in the case of a trust established by an individual for the purpose of divesting himself of all control and knowledge of his assets in order to avoid a conflict of interest during his term of office, only the existence of such trust and the name of the trustee shall be included, but the value shall not be specified; (D) all real property and its location, whether owned by the individual or held in the name of a corporation, partnership or trust...."

The purpose of the statement of financial interests is to provide to the public information sufficient to identify potential conflicts of interest. State Ethics Commission Advisory Opinion 79-5, 40 Conn. L.J. No. 36, p. 18. A public official cannot favor, by his official actions, private financial interests of which he is unaware because they are in a blind trust. Therefore, the blind trust satisfies the

intent of section 1-83, supra.

The statute in question, however, in authorizing the reporting of blind trusts speaks only of one "established by an individual for the purpose of divesting himself of all control and knowledge of his assets in order to avoid a conflict of interest during his term of office" (emphasis added). The reference to "his term of office" and "his assets" appears to confine the individual who may avoid disclosure of assets by placing them in a blind trust to the official alone. Furthermore, the statute states that limited disclosure applies only to securities in a blind trust. Real estate in a trust, blind or not, apparently should be identified, with its location, if the public official, his spouse, or dependent children residing in the individual's household are beneficial owners of the real estate.

While the spirit of the Code of Ethics for Public Officials is satisfied by the blind trust the official's spouse has established, the letter of the law is not. Under the terms of the present trust, however, the official cannot comply with section 1-83, General Statutes, for he is not entitled to the information which he must report. Unless the spouse chooses to redraw the trust indenture so that its contents may be revealed to the beneficiaries, the official cannot comply. The Commission would not require a person to do that which is impossible. Furthermore, the purpose of the financial disclosure provisions of the Code of Ethics for Public Officials would be fulfilled if the official has no knowledge of the assets in his spouse's trust. The official still would, of course, have to comply with the Code insofar as possible by revealing the existence of the trust and the names of the trustees, plus the fact that income was received from the trust if he, his spouse, or any dependent child residing in his household receives income from the trust in excess of the one thousand dollar threshold established by section 1-83(b)(1)(B), General Statutes.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated

May 25, 1979