

STATE OF CONNECTICUT
ETHICS COMMISSION

ADVISORY OPINION NUMBER 81-14

Financial Records Concerning Lobbying Activities

Some individuals have formed a partnership to carry on lobbying activities. The partners have registered as lobbyists with the Ethics Commission in compliance with section 1-94, General Statutes, as have their clients. Both the clients and the partners, as registrants, file with the Commission the periodic financial reports required by section 1-96, General Statutes.

To provide assistance in its lobbying activities the partnership has contracted for the services of another individual, who has been retained as an independent contractor for a fixed annual rate. The annual rate remains the same regardless of the number of clients serviced by the partnership. The independent contractor performs his lobbying on a part-time, as-needed basis.

When the independent contractor is asked by the partnership to lobby on behalf of one of the partnership's clients he registers as lobbyist for that client. In his periodic financial reports he apportions the monthly allocation of his annual fee among the various clients. Since he considers the payor of this amount to be the partnership, and so indicates in his financial reports, he may report a receipt whether or not the partnership has received a payment for lobbying from the client.

If the client that reporting period pays the partnership for lobbying done on its behalf by the partnership, its financial report will show a single sum with the partnership the payee. The partners' financial reports for the period will indicate amounts received from the client which, totalled, equal the amount reported by the client to have been paid to the partnership.

The Ethics Commission staff has informed the partnership that the client should reflect in its reports the payments reported by the independent contractor for lobbying on behalf of the client during the reporting period. The partnership disagrees and has requested the Ethics Commission to confirm that the reporting procedures summarized above conform to the Code of Ethics for Lobbyists, Chapter 10, Part II, General Statutes and the Regulations of Connecticut State Agencies applicable to those subject to the Code.

The procedures are correct in all respects but a couple of minor ones.

As can be seen, the registration and reporting described above meet the basic purposes of the Code. No monies received for lobbying or activities in furtherance of lobbying on behalf of a particular client are unreported. In fact, since the partners in their financial reports report receiving all the money that a client states it has paid the partnership, and the independent contractor shows receipt of some money from the partnership for lobbying on behalf of the client, there is over-reporting. This would not occur if the reports were prepared in complete compliance with the Code and the regulations implementing it.

A financial report "...shall state compensation or reimbursement received or expenditures made... in furtherance of lobbying..." Subsection 1-96(b), *id.* "The financial reports of all client and communicator registrants shall include ... (1) any fee, retainer or reimbursed expenses paid by a client registrant to a communicator registrant or other person who is not a member of or a regular employee of the client" Subdivision 1-92-48(1), Regulations of Connecticut State Agencies. A "client registrant" is one on whose behalf lobbying takes place and who makes the expenditures in furtherance of lobbying. Subdivision 1-92-41(2), *id.* The individual registrant who does the lobbying on behalf of the client registrant is the "communicator registrant". Subdivision 1-92-41(1), *id.* In the case at hand, the partners and the independent contractor all are registered to lobby on behalf of some clients and are thus communicator registrants.

In its financial report a client on whose behalf they all lobby need not apportion its fee among the various communicator lobbyists who represented it during the reporting period. It may, as the clients now do, report the fee paid the partnership for lobbying, showing the partnership as the payee. The partnership is the "other person" as that phrase is used in the portion of subdivision 1-92-48(1), Regulations of Connecticut State Agencies quoted above. (On its registration form, of course, the client lists not the partnership but each individual who will lobby on its behalf. Subsection 1-95(a)(4), General Statutes.)

The fee when received by the partnership is then apportioned among the financial reports of the communicator registrants who represented the client. This should be done by the communicator registrants, who are the only ones in a position to decide how the fee should be split. They must make a reasonable effort to devise an honest allocation. The only other requirement is that the total fee paid the partnership be reflected in the individual financial reports of the communicator registrants. See Ethics Commission Advisory Opinion No. 78-6, 39 Conn. L.J. 43, p. 21 (April 25, 1978).

No more than the total fee should be reflected. "...The... 'person who compensates or reimburses, or agrees to compensate or reimburse, the registrant' as that phrase is used in Subdivision (1) of Subsection (a) of Section 1-95, General Statutes refers to the client lobbyist, regardless of whether the client lobbyist who is making expenditures in furtherance of lobbying makes payment directly to the individual registrant who is the communicator or to any partnership, professional corporation, or corporation in which the individual registrant is a

member, or by which the individual registrant is employed...." Section 1-92-46, Regulations of Connecticut State Agencies. "Employed" in this section is used in a general sense. It includes any agreement for personal services in return for compensation, no matter what the particular employment relationship--employer/employee, employer/independent contractor, principal/agent, etc. Therefore, to comply with this regulation and subdivision 1-92-48(1), above, the independent contractor should include in his financial report for a client the amount allocated for his lobbying on behalf of the client, showing the client to be the payor. The partners, among them, should report the remainder of the fee.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated

September 4, 1981

