

# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 81-3

### Acceptance of an Honorarium by a Public Official

Several organizations propose to hold a dinner to raise funds as an honorarium for their local State legislator. The funds will be raised by charging for the dinner a fee which is somewhat more than the cost of the dinner. The profits thus generated are to be used by the legislator to help defray costs associated with his position as a member of the General Assembly for which he is not reimbursed by that body. The State Representative has given several examples of the purposes for which the funds raised at the dinner might be spent. Because he is a member of the General Assembly he is invited to serve on various private boards and committees. Some do not defray the costs of travel incurred in carrying out their official activities. By virtue of his office he is often one of the first to be given the opportunity to contribute to charitable campaigns. Between his office and his position on particular General Assembly committees, he is asked to speak to organizations around the State. Some of the organizations whose invitations he accepts do not pay his travel expenses. The General Assembly may not reimburse him for the travel expenses either, even though he may have been invited as a legislative committee member, if it is concluded that the address is not sufficiently related to his legislative duties. The General Assembly member has asked whether the Codes of Ethics administered by the Ethics Commission, Chapter 10, General Statutes, would prevent him from accepting such an honorarium and spending it for the purposes noted and similar ones.

The Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, implicitly permits a member of the General Assembly to accept a fee or honorarium. When speaking of fees or honorariums, the only condition mentioned in the Code is that receipt of one be disclosed to the Ethics Commission within thirty days. Subsection 1-83(b)(2), General Statutes. In that subsection there are no conditions imposed which are based on the size of the honorarium or the manner in which it is raised.

In accepting a fee or honorarium, however, certain general provisions of the Code of Ethics must in any case be observed. The legislator should avoid even the appearance of deriving a monetary gain by reason of his official activity. Subsection 1-84(a) and section 1-85, General Statutes. Provisions closely related, under the circumstances, which must be observed are the prohibitions against accepting employment which could impair the

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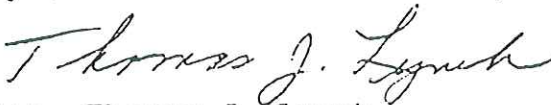
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legislator's independence of judgment as to his official duties (subsection 1-84(b)), against using his office to obtain financial gain for himself (subsection 1-84(c)), and the provision which forbids a public official from soliciting or accepting anything of value based on any understanding that the vote, official action, or judgment of the legislator would be or had been influenced thereby (subsection 1-84(g), General Statutes). The danger of a violation of the foregoing provisions certainly seems less likely should the dinner be attended mainly by constituents of the legislator.

Although none of the organizations sponsoring the dinner is a lobbyist, some of those buying tickets may be. There can be questions about the application of the lobbying act, Chapter 10, Part II, General Statutes, to the fund-raising dinner. Profits from the dinner will be given to the legislator as an honorarium. An "honorarium" is a voluntary reward for that for which no remuneration could be collected by law. Black's Law Dictionary (5th ed. 1979). It denotes a compensatory payment. Bogardus v. Helvering, (88 F. 2d 646, 649 (2d Cir. 1937)). It certainly would include the concept of compensation, though voluntary, in consideration of services rendered, where it is coupled with "fee", as it is in subsection 1-83(b)(2), General Statutes. Cf. Bogardus v. Commissioner of Internal Revenue, 302 U.S. 34, 42-43, 58 S. Ct. 61, 65-66 (1937). Since the monies given to the legislator are an "honorarium" in return for the legislator's presence and, no doubt, some sort of speech, they do not amount to a gift, as "gift" is defined in subsection 1-91(g), General Statutes so long as it can be fairly said that the legislator's contribution is in line with the honorarium. Consequently, the limitation on gifts by a registered lobbyist to a public official in subsection 1-97(a), General Statutes would not be applicable to the purchase of dinner tickets by a lobbyist. (A large contribution toward the dinner by a lobbyist could, of course, raise questions in some minds whether there might be problems under some of the subsections of section 1-84, General Statutes, mentioned above. It would also suggest the possibility of a lobbyist attempting to place the legislator under personal obligation, in violation of subsection 1-97(c)(1), General Statutes).

In summary, constituents and supporters of a legislator may, without violating Chapter 10, General Statutes give him, an honorarium, profits from a dinner to be used to defray certain expenses incurred incident to his holding office provided it is clear that the legislator's judgment and official actions will not be influenced by the honorarium.

By order of the Commission,

  
Rev. Thomas J. Lynch  
Chairman

Dated March 6, 1981