

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

In the Matter of a Request
for a Declaratory Ruling

89-E

Mr. John A. Berman
Applicant

John A. Berman, Esq. has requested a declaratory ruling concerning the propriety of fundraising for the purpose of reimbursing a state employee's legal fees.

Specifically, Attorney Berman has asked whether a client represented by his firm may "...solicit funds from people, who are not lobbyists, in order to raise money to reimburse a State employee for legal expenses which were incurred as a result of defending himself against certain allegations stemming from the performance of his State position." The Ethics Commission has been asked whether the state employee in question would be in violation of Conn. Gen. Stat. §1-84(c) if he accepts this money as reimbursement for his legal fees. §1-84(c) of the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I, states, in pertinent part, that "...no...state employee shall use his public office or position...to obtain financial gain..."

Incident to his request for a ruling Attorney Berman has provided the following: the employee, Dr. James E. Mulvihill, is the Executive Director of the University of Connecticut Health Center. He also oversees the operations of the University of Connecticut Foundation, Inc. Dr. Mulvihill became involved in an official investigation because of his position. The monies raised would be used solely for reimbursement of legal expenses incurred by Dr. Mulvihill during the investigation. Attorney Berman goes on to state that contributors would not benefit in any way from their donations. He adds that no contributions would be solicited or accepted from people employed or supervised, by Dr. Mulvihill. The contributors would be a group of the Doctor's friends who personally support him and do not stand to benefit

from his official position.

§1-84(c) is designed to prevent a public official or state employee from personally profiting by virtue of his or her official power. Since Dr. Mulvihill is liable for the legal expenses in question, any contributions clearly will benefit him personally, regardless of whether the funds go to him or directly to the law firm that furnished his defense. 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 Dr. Mulvihill receives no contributions from anyone who may be able to benefit through the exercise of his official authority, there is no such connection and he may accept donations for the purpose of defraying his legal expenses without violation of §1-84(c) of the Code. In addition to not accepting contributions from those employed or supervised by him, Dr. Mulvihill should also not accept contributions from any individual or business contracting with, or seeking to contract with, the Health Center or Foundation.

The mere fact, however, that one is a state employee, not subject to Dr. Mulvihill's authority; is a superior of the Doctor (e.g., the members of the University's Board of Trustees); is or has been a patient at the Health Center; is or has been a contributor to the Foundation; or is related to or employed by one who may not contribute is insufficient reason to prohibit contribution to the fund in question.

It must, of course, be understood that no person allowed to contribute should do so on behalf of an individual or business that is barred from contributing.

By order of the Commission,



William A. Elrick
Chairperson

Dated 8-7-89