



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 80-10

Legislator-Attorney Representing a Client in a
Transaction Authorized by a Special Act

Special Act No. 74-102 empowered the State Bond Commission to issue State bonds to finance mass transportation capital improvements. The proceeds of the bonds may be used to purchase, among other things, railroad stations or other building to serve mass transportation passengers. Special Act No. 79-58 directed the Commissioner of Transportation to purchase the Stamford railroad station for a public transportation use, utilizing proceeds of the sale of bonds authorized by Special Act No. 74-102. The railroad station is owned by a client of a law firm of which a State legislator is a member. When the bill which became Special Act No. 79-58 was voted upon the legislator absented himself to avoid a possible conflict of interest. (See section 1-86, General Statutes and Canon 8, Code of Professional Responsibility, 1 Conn. Practice Book 48-50.) The legislator has asked whether he or his law firm may with propriety represent the client in the sale of the station to the State during pre-litigation proceedings or, should it occur, litigation.

As a public official (section 1-79(j), General Statutes) the legislator is subject to the ethical provisions of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. These provisions, contained in sections 1-84 through 1-86, General Statutes, do not furnish specific guidance for the situation presented. However, none of the general rules given would appear to prevent the attorney from representing the client at any stage of the sale so long as the terms of the rules are observed.

With the special act directing purchase of the railroad station already in effect, there should be no problem of violation of subsection 1-84(a) and section 1-85, General Statutes, concerning official action which benefits one's financial interests. It is unlikely that, incident to his services in the General Assembly, the legislator gained any confidential information regarding the sale. If he did, he may not use or disclose it in the course of his representation, and should reconsider whether he should represent the client at all. Subsections 1-84(b), 1-84(c), General Statutes. He may not use his public office to further his client's case, but there is no basis for believing that he would or even could. Subsection 1-84(c), *id.* His actions during the vote on Special Act No. 79-58 and in asking for an advisory opinion indicate a desire to avoid even the appearance of a conflict of interest. He may not represent the client before the agencies listed in subsection 1-84(d), General Statutes, but the involvement of any of them in the transaction in question would not be

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expected. He may not sign a contract with the State, with certain exceptions, but there should be no occasion for him to do so on his own behalf or on behalf of his law firm in the course of the sale transaction or litigation arising from it. Subsection 1-84(i), General Statutes.

There appears to be no reason in the Code of Ethics for Public Officials why the legislator could not represent his firm's client in pre-litigation negotiations regarding purchase of the Stamford railroad station by the State, or in litigation concerning the transaction. If he can represent the client, certainly anyone in his firm can, with or without his assisting in the matter. If for some reason (acquisition of pertinent confidential knowledge in the course of his duties as a legislator; necessity to appear before an agency listed in section 1-84(d), above; contract between the State and the legislator or his firm required) it should turn out that the legislator cannot represent the firm's client, it seems almost inevitable that the firm could not either. The terms of the applicable provision of the Code of Ethics would not permit it (subsections 1-84(d), 1-84(i), above, for example) or the ground for disqualification (such as confidential information held by the legislator) would require disqualification of the firm as well in order to avoid a conflict of interest or the appearance of one under the Code of Ethics for Public Officials and the Code of Professional Responsibility with which attorneys must conform. From the facts given, the Commission sees no such ground for disqualification of the legislator-attorney in this case under the Code of Ethics for Public Officials.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated March 7, 1980