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ADVISORY OPINION NUMBER 79-3

Appearances by a Public Official's Firm  
before Certain State Agencies

A member of the Connecticut Commission on the Arts is an attorney who is also a member of a law firm, other members of which are likely to represent clients for compensation before the agencies listed in section 6(d), Public Act Number 77-600. The State Ethics Commission has been asked whether the attorney may remain a member of the Connecticut Commission on the Arts until his firm in fact agrees to accept employment to represent others before the listed agencies. Additionally, clarification of the relationship of sections 7 and 8 to section 6 of Public Act Number 77-600 has been requested.

The Commission on the Arts has been established and is governed by Chapter 181, Connecticut General Statutes. On July 1, 1978 the Commission also assumed the functions, powers, and duties of the Connecticut Foundation for the Arts. Public Act Number 78-187. Its members are appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Section 10-369(a), Connecticut General Statutes. Among the monies disbursed by the Commission in carrying out its objective of fostering the arts are substantial amounts of appropriated State funds. From the foregoing it is apparent the Commission on the Arts is not an advisory board (see section 1(g), Public Act Number 77-600), and its members are public officials. Section 1(j), Public Act Number 77-600; State Ethics Commission Advisory Opinion Number 78-21, 40 Conn. L.J. No. 13, p. 11.

A public official may not be a member of law firm which appears, agrees to appear, or takes any other action, for compensation, on behalf of another person before the State agencies listed in section 6(d), Public Act Number 77-600. State Ethics Commission Advisory Opinion Number 78-21, *supra*. The prohibition does not extend to the mere possibility of appearing, of agreeing to appear, or of taking other action before the listed agencies. Prior to the time a public official's firm either agrees to represent or represents another for pay before one of the agencies, the public official must terminate his official status or resign from the firm. As a practical matter, a public official may not be able to sever his connection with his official office or his firm before the firm agrees to represent another, or take some other action.

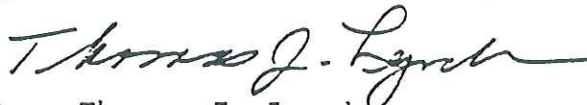
action, for compensation before the listed agencies. Failure to terminate one connection or the other prior to the agreement would be a technical violation of the Act. Failure of the public official to resign from the office or the firm as soon as the agreement is reached would constitute a substantial violation of section 6(d), Public Act Number 77-600.

Remaining with the firm could not be excused under section 7 of the Act. That section pertains to section 6(a) of the Act. It defines when a conflict of interest is substantial for purposes of section 6(a). Section 6(d) imposes an absolute ban on the situations described. Neither substantiality of the conflict, nor possible financial benefit or detriment to the public official, is of any consequence so long as the representation is for compensation.

Because the ban in section 6(d) is absolute, it cannot be avoided by the exception, allowed in some instances by section 8, Public Act Number 77-600, for financial interests of a de minimus [sic] nature. Similarly, a public official may not escape the prohibition of section 6(d) by excusing himself from deliberating or voting on a matter which somehow involves his law firm's appearances before the listed agencies. The procedures of section 8 are, of course, available to members of the Commission of the Arts, and other public officials, to avoid conflicts of interests described in those subsections of section 6, Public Act Number 77-600, which do not ban certain activity or situations under any circumstances. For example, a public official may utilize the procedures of section 8 to avoid violating the general provisions of section 6(a) of the Act. Section 8, however, has no application to the terms of section 6(d), for the same reasons that it appears to have no application to such activity as that proscribed by sections 6(f) and 6(g), Public Act Number 77-600.

In summary, it is a violation of section 6(d) for a member of the Connecticut Commission on the Arts to remain a member of a law firm which agrees to represent or represents another person for compensation before the State agencies listed in section 6(d), Public Act Number 77-600. Nothing in that Act permits an exception to the mandate of section 6(d).

By order of the Commission,



Rev. Thomas J. Lynch  
Chairman

Dated January 4, 1979