



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 88-18

Explanation of the Gift Law and Law Regarding
Expenditures for the Benefit of a Public Official

Patrick Sullivan, a registered lobbyist, has asked several questions regarding the interpretation of the Code of Ethics for Lobbyists. Each question will be addressed separately.

1. When in the course of public relations or strategic planning work on behalf of a non-registered client, a registered lobbyist incurs an expense over fifteen dollars on behalf of a public official, is the expense reportable? If so, how should it be reported?

Subsection 1-96(b), General Statutes requires registered lobbyists to report "expenditure[s] of fifteen dollars or more per person for each occasion made by the reporting registrant...for the benefit of a public official in the legislative or executive branch, a member of his staff or immediate family, itemized by date, beneficiary, amount and circumstances of the transaction." This provision is not limited to expenditures made by a registrant on behalf of a client; it includes any expenditures over fifteen dollars by a registered lobbyist, even if the occasion was unrelated to lobbying. Therefore, expenditures over fifteen dollars for the benefit of a public official made by a registered lobbyist on behalf of a non-registered client must clearly be reported.

The best method for the reporting of such an occasion is not as clear. The Commission recognizes that it would be misleading, and perhaps unfair, to include such an expenditure on one of the lobbyist's communicator financial reports when the expenditure had nothing to do with any of the lobbyist's registered clients and the lobbyist wasn't reimbursed for the expenditure by one of his or her registered clients. Therefore, until the Ethics Commission develops a specific form for this purpose, the lobbyist should file a letter with the Commission, signed under penalty of false statement, detailing the occasion as required by subsection 1-96(b).

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2. If a non-registered employee of a law firm or consulting/lobbying firm which has employees registered as lobbyists makes an expenditure over fifteen dollars for the benefit of a public official, must the expenditure be reported?

The Code of Ethics for Lobbyists does not require a non-registered employee of a law firm or consulting/lobbying firm which has employees registered as lobbyists to report expenditures over fifteen dollars for the benefit of a public official. Subsection 1-96(b), General Statutes, only applies to registrants. If, however, the non-registered employee ultimately is reimbursed by a client registrant, communicator registrant, or group of communicator registrants (*i.e.*, a "business organization" as that term is used in subsection 1-96(a), General Statutes) the reimbursing registrant(s) must report the expenditure.

It should also be noted that it would be contrary to the intent and spirit of the law if both an employee registered as a lobbyist and a non-registered employee were present at an occasion, but the non-registered employee paid so as to avoid the reporting requirements of subsection 1-96(b), General Statutes.

3. If one division of a corporation is a registered lobbyist, does the Code of Ethics for Lobbyists, including the reporting requirements, apply to individual employees in other divisions of the same company?

If the corporation is registered as a client lobbyist, the Code of Ethics for Lobbyists, including the reporting requirements and gift restrictions, applies, where appropriate, to all employees of the corporation. If, however, only one division of the corporation is involved in lobbying activities, and, therefore, only that one division is registered as a client lobbyist, the Code of Ethics for Lobbyists only applies to the division of the corporation registered as a client lobbyist.

4. If, on a single occasion, a lobbyist presents a public official, a member of his or her staff or immediate family, with a gift such as parking, transportation or a ticket and pays for the food and drink consumed how should the event be reported?

According to section 1-92-48(b), Regulations of Connecticut State Agencies, "[t]he itemized statement of each expenditure of fifteen dollars or more per person per occasion or

transaction shall be provided whether the expenditure...is for food and drink, a gift, or a combination thereof." Therefore, if the combined cost of the gift, food and drink exceeds fifteen dollars, an itemized statement must be provided even if the individual costs of the gift and food and drink are each under fifteen dollars.

Subsection 1-97(a), General Statutes, prohibits a registrant or anyone acting on behalf of a registrant from giving to any State employee, public official, candidate for public office or member of his or her staff or immediate family gifts that amount to fifty dollars or more in value in the aggregate in any calendar year. Subsection 1-91(g), General Statutes, exempts from the definition of "gift", "food or beverage or both, consumed on a single occasion, the cost of which is less than fifty dollars per person." Therefore, a registrant could, on a single occasion, spend up to \$49.99 on food and beverage and \$49.99 on a gift to benefit a public official, or a member of his or her staff or immediate family without violating the Code of Ethics for Lobbyists. As long as these limits are not exceeded, there is no violation if the combined cost of the gift and food and drink is greater than fifty dollars. To allow all involved to determine whether the limits have been surpassed, the registrant must itemize food and drink and gifts separately when reporting pursuant to subsection 1-96(b), General Statutes.

5. If a reportable public official buys a lobbyist dinner and the lobbyist gives the legislator tickets to an event that evening, and the difference between the two costs is less than fifteen dollars, must they reimburse each other, or is barter permissible?

Subsection 1-91(g), General Statutes, defines "gift" as "a payment, subscription, advance, forbearance, rendering of services, deposit of money, or anything of value unless consideration of equal or greater value is received." Therefore, if a lobbyist and a legislator exchange a ticket and a dinner of equal value on the same evening no gift has been given since consideration of equal value was received in return. The exchange can only involve, however, events occurring on the same day. The legislator and the lobbyist cannot keep a running tab of items exchanged throughout the year in hopes that by the end of the year the exchanges will be of equal value. Such a practice would be impossible to regulate.

6. If a non-registered member of a trade association which is registered as a client lobbyist entertains a public official at his or her own expense, is the event reportable?

As previously explained, the reporting requirements of subsection 1-96(b), General Statutes, only apply to registrants. Therefore, a non-registered individual need not report expenditures for the benefit of public officials, even if the non-registered individual is a member of a registered trade association. If, however, the individual makes expenditures of five hundred dollars or more in a calendar year for lobbying, and in furtherance thereof, he or she becomes a lobbyist. Subsection 1-91(1), General Statutes. This interpretation should not, of course, be used by the registered trade association as a way to avoid the spirit as well as the intent of the Code's reporting requirements.

By order of the Commission,



William A. Elrick
Chairperson

Dated 10-11-88