



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-6

A Member of the General Assembly Taking
Official Action Which May Benefit Another

Senator William A. DiBella of Hartford has asked the Ethics Commission whether under the Code of Ethics for Public Officials the following facts constitute a conflict, or the appearance of a conflict, of interest.

In 1987, at the request of the Hartford Common Council, Senator DiBella and the other seven legislators representing Hartford submitted a bill to the General Assembly to provide \$750,000 to the City for the purpose of studying the feasibility of building a convention center. S.A. 87-77. The bill in question was approved with the support of Senator DiBella and the other seven legislators. As a result, the City submitted a report to the Legislature recommending a location for the convention center in Hartford, proposing a financing mechanism, and providing supporting data to justify the project. Senator DiBella states that he played no role in the selection of the suggested site for the convention center.

During the 1988 session of the General Assembly, 20 million dollars was placed in a fund for the purpose of convention center design and to provide for the purchase of land in Hartford on which the convention center would be built. S.A. 88-77. No specific parcel of land was designated as part of this bonding package. Senator DiBella voted in favor of the funding. Additionally in 1988, a convention center task force was established by the General Assembly. The task force recommended to the Legislature that an authority be created to govern the financing, construction, and operation of the convention center.

The proposed authority, the Connecticut Convention Center Authority, was established in 1989 by P.A. 89-381. (This Act also provides for the financing of the construction and operation of the convention center through the issuance of bonds and the receipt of tax revenues.) Senator DiBella again voted in support of the legislation in question. The Convention Center Authority is composed of eight legislative appointees (four democrats and four republicans appointed by the

legislative leaders), three appointees of the Governor, and two appointees of the Hartford Common Council. Senator DiBella is not a member of the Authority nor does he have a role in the appointment process.

To summarize, Senator DiBella, as Co-Chairman of the Finance, Revenue, and Bonding Committee of the General Assembly, has consistently supported, and in fact been one of the leading proponents, of the legislation which led to the creation of the Connecticut Convention Center Authority and the legislative authorization of funding for the construction of the convention center in Hartford.

According to Senator DiBella, reporters for The Hartford Courant have questioned whether his support for the convention center creates a conflict, or the appearance of a conflict, of interest based on the following facts:

1. Senator DiBella is a director and part owner of Shared Technologies, Inc. (STI). Established in 1985, STI's assets were purchased from United Technologies Corporation and American Telephone and Telegraph. These assets consisted largely of space in CityPlace, Hartford with some lesser amounts of space in buildings in Chicago and Seattle. At the time the CityPlace assets were purchased by STI, the company received a twenty year exclusive agreement to market telecommunications equipment in that building. (However, no exclusive franchise to sell equipment was granted to STI.) The marketing agreement applies to both CityPlace I and II, regardless of who owns the buildings. Subsequent to the establishment of the marketing agreement, JMB Realty bought the rights to CityPlace II. JMB Realty is also the owner of the property on Main Street in Hartford which the City has selected as the site for the convention center. Senator DiBella has no financial interest in the Main Street property nor does he have any financial interest in JMB Realty.

2. Approximately five years ago Senator DiBella and three other parties purchased a limited partnership interest in a partnership which owns a piece of property in Middletown, Connecticut. The limited partnership interest was purchased from the general partner, Richard Roberts Co. The total share purchased was 5 percent, with Senator DiBella owning 1.25 percent of the property. The general partner in the property hired the development company of Bronson and Hutensky (B and H). The lawyer for B and H was Mr. Preston Harding. Mr. Harding is also a partner in a holding group that has an agreement to develop 12B, a parcel of land across from the location the City has proposed for the convention center. Senator DiBella has no financial interest in the 12B parcel.

3. As a member of the Hartford Council in 1978, Mr. DiBella voted in favor of certain tax agreements and the final CityPlace disposition agreement. B and H were the original developers of CityPlace. At no time has Senator DiBella had a financial interest in B and H nor has he had any financial ties to Allan Hutensky or Richard Bronson individually.

4. Mr. Nicholas Carbone is a partner in the 12B parcel. Senator DiBella and Mr. Carbone were involved in a limited partnership unrelated to the 12B parcel. The partnership was terminated some time ago.

In essence, the question before the Ethics Commission is whether, under the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I, there is a conflict of interest, or the appearance of a conflict, if a member of the General Assembly takes official action on a matter which may benefit an individual or organization with which the legislator has or has had business dealings, absent any financial benefit to the legislator from the official action in question. A subsidiary question posed by Senator DiBella is what responsibility does a legislator have to apprise himself of the financial interests of those with whom he has or has had business dealings before taking action on a matter in the General Assembly, absent any financial interest of the legislator in the matter.

The conflict of interest provisions of the Code of Ethics for Public Officials, §§1-84 - 1-86, are premised on one basic concept: public office is a public trust and must not be used for the private financial benefit of oneself, one's family, or one's business. Specifically: §1-84(a) and 1-85 (with an exception not pertinent to the matter under consideration) forbid a public official or state employee, including a member of the General Assembly, from taking official action on a matter if the individual has reason to believe or expect that a direct financial benefit will accrue to himself or herself, his or her immediate family, or an associated business (defined in §1-79(b) of the Code as a business in which the individual or an immediate family member is a director, officer, owner, limited or general partner, or holder of 5 percent or more of the total outstanding stock of any class); §1-84(b) prohibits acceptance of outside employment which will impair independence of judgment as to official duties or require or induce disclosure of confidential state information; §1-84(c) forbids use of public position or office, or confidential information acquired through such position or office, for the financial benefit of oneself, one's family, or an associated business; and §§1-84(f) and (g) bar the offer or acceptance of anything

of value based on any understanding that the official's or employee's action or judgment would be or had been thereby influenced (i.e., anti-bribery provisions).

There has been no claim whatsoever that Senator DiBella took official action on the convention center as a quid pro quo for any other business deal, opportunity, or advantage. Therefore, it is not necessary to discuss §§1-84(f) and (g). For §§1-84(a), 1-85, or 1-84(c) to apply, the individual, his or her family, or an associated business must financially benefit from the individual's official actions. Since Senator DiBella has no financial interest, direct or indirect, in the proposed convention center site or the adjacent 12B parcel, these Code sections also cannot have been breached by any of the Senator's actions on legislation affecting the convention center.

§1-84(b) is the broadest of the Code's conflict of interest sections. This provision has been consistently applied by the Commission to prohibit full-time Executive Branch officials and employees from accepting outside employment (i.e., any form of endeavor for profit) which directly involves individuals or entities subject to the official's or employee's state authority.

Such a rigorous standard, however, is obviously inapplicable to Connecticut's part-time legislators. Only in instances of the most specific and direct conflict has §1-84(b) been used to prohibit a member of the General Assembly from accepting outside employment. (See, e.g., Ethics Commission Advisory Opinion Nos. 89-7, 50 Conn. L.J. No. 44, p. 1C (May 2, 1989), Chairman of the Labor and Public Employees Committee should not accept employment representing clients before the Workers' Compensation Commission because of his significant authority over the Commission; and 89-28, 51 Conn. L.J. No. 17, p. 3C (October 24, 1989), Chairman of the Banks Committee should not accept employment as an agent for investors seeking to purchase a bank, if the bank in question is subject to his Committee's authority or interested in legislation pending before the Committee.)

To suggest that a legislator could violate §1-84(b) by entering into a business relationship with an individual or entity that may benefit from his official actions on a totally unrelated matter is to establish an impractical, and in fact unattainable, standard of conduct. Since the members of the General Assembly have the authority to affect every individual and business in the State, the logical extension of such an

interpretation of §1-84(b) would be to prohibit all outside employment or investment by Connecticut's part-time legislators. This result was never intended, or even contemplated, by the drafters of the Code and is hereby rejected by the Commission.

It follows that since, under the Code, a legislator cannot have a conflict when his or her actions benefit a client, customer, business associate, or friend, unless the official (or his or her family or business) also benefit, there is no requirement that the official apprise himself or herself of the financial interests of such persons. Again, to hold otherwise would lead to an untenable result, for it would require a legislator to know of, and review, all the financial interests of every person with whom he or she did business before taking official action on any matter in the General Assembly.

In summary, the Code of Ethics for Public Officials requires the members of the General Assembly to be aware of the financial interests of themselves, their immediate families, and their businesses; and to refrain from official actions which directly and specifically benefit those interests (See, e.g., Vito M. Mazza, Ethics Commission Docket No. 89-2 (1989). State representative is prohibited from taking official action on interstate banking legislation, because of a financial interest in bank stock that would be directly affected by such action. The legislation in question would have permitted the consummation of a merger agreement between the bank in which the legislator had a financial interest and an out-of-state bank with a resultant direct increase in the value of the legislator's stock interest.)

The Code of Ethics does not require that Connecticut's part-time legislators know of and abstain from acting on matters which benefit others, absent a specific, direct benefit to the official, his or her immediate family, or business.

Finally, Senator DiBella has asked the Ethics Commission to address the question of an appearance of a conflict of interest. The Code of Ethics for Public Officials does not speak of appearances of conflict, only actualities.

By order of the Commission,



William A. Elrick
Chairperson

Dated 2-5-90

