

**\*\*\*\*\*THIS OPINION FAILS TO ADDRESS THE REPRESENTATION PROHIBITIONS OF SECTION 8-13-740(A)(1) AND (2) AS THEY RELATE TO STATEWIDE OFFICE HOLDERS AND MEMBERS OF THE GENERAL ASSEMBLY.\*\*\*\*\***

**STATEWIDE OFFICE HOLDERS AND MEMBERS OF THE GENERAL ASSEMBLY, IMMEDIATE FAMILY MEMBERS, INDIVIDUALS WITH WHOM THEY ARE ASSOCIATED AND BUSINESSES WITH WHICH THEY ARE ASSOCIATED ARE PROHIBITED FROM REPRESENTING CLIENTS BEFORE THEIR GOVERNMENTAL ENTITY. THIS PROHIBITION WOULD EXTEND TO THE LOBBYING FUNCTIONS OF ANY BUSINESS WITH WHICH A STATEWIDE OFFICE HOLDER OR A MEMBER OF THE GENERAL ASSEMBLY IS ASSOCIATED.**

SEC AO92-007

November 18, 1992

SUBJECT: POLITICAL INVOLVEMENT OF BUSINESS PARTNERSHIP OR CORPORATION ASSOCIATED WITH LOBBYIST

SUMMARY:

A lobbyist is prohibited from making contributions to a candidate but a partnership, corporation, partner or shareholder is not prohibited from making such contributions. A lobbyist and lobbyist principal are prohibited from hosting a fund raising event but a partnership, corporation, partner or shareholder may do so if none of them is the lobbyist or lobbyist principal. A PAC to which a lobbyist contributes is not prohibited from making contributions to a public officeholder. Contributions shall not exceed \$3,500 to a candidate for statewide office and \$1,000 to a candidate for any other office.

QUESTION:

An attorney for a lobbyist has asked several questions regarding the newly-enacted Ethics, Government Accountability, and Campaign Reform Act of 1991. He asks:

1. Can a member of the General Assembly or any statewide office holder belong to a business partnership or corporation if another member of the partnership or a shareholder or officer of the corporation is a registered lobbyist?

2. To the extent the answers to number one are yes, are there any restrictions or requirements on the political contributions or activities of:
  - a. The business partnership or corporation?
  - b. The individual partners or shareholders?
  
3. If a partner in a business partnership or an officer or shareholder of a corporation is a registered lobbyist, can:
  - a. The partnership or corporation make political contributions to a candidate for statewide office or the general assembly?
  - b. Individual partners or shareholders make political contributions to a candidate for statewide office or the general assembly?
  
4. If the answer to 3.a. or 3.b. is yes, are there any restrictions or requirements on the political contributions or activities of:
  - a. The business partnership or corporation?
  - b. The individual partners or shareholders?
  
5. If the business partnership or corporation has a "state" political action committee (PAC), would this affect any of the above answers?

#### DISCUSSION:

This opinion is rendered in response to a letter dated October 28, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

It does not appear that a member of the General Assembly or statewide officeholder is specifically prohibited in Article 3 from involvement in a partnership or corporation in which another lobbyist is also a partner or shareholder. The State Ethics Commission notes instead that Section 2-17-30 provides for disclosure of a business association with a member of the General Assembly or other officials and a lobbyist. Since it appears that such business relationships are recognized, the State Ethics Commission would advise that the Secretary of State be contacted regarding relationships between the office holders and the lobbyist.

As to question 2, Section 8-13-1314(A)(1) and (3) provides in part as follows:

- (A) Within an election cycle, no candidate or anyone acting on his behalf may solicit or accept:
  - (1) a contribution which exceeds:

- 
- (a) three thousand five hundred dollars in the case of a candidate for statewide office; or
  - (b) one thousand dollars in the case of a candidate for any other office;

\* \* \* \*

- (3) a contribution from a registered lobbyist if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election;

Further, Section 2-17-80(A) provides in part as follows:

A lobbyist or a person acting on behalf of a lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit, facilitate, or provide to or on behalf of any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees any of the following:

\* \* \* \*

- (5) contributions, as defined in Section 8-13-1300(7).

Thus, the lobbyist cannot contribute to the public officeholder. Further, neither the lobbyist or the lobbyist principal may host a fundraiser for the officeholder in accordance with Section 2-17-110(f). There do not appear to be any restrictions on the activities of individual members of the partnership or corporation, with the exception of the lobbyist, in contributing to or hosting fund-raising events for the public officeholder.

With regard to questions 3 and 4, the restriction in Section 8-13-1314(a) applies to a contribution by a lobbyist to a candidate. A partnership or corporation would not be prohibited from making such a contribution. The Commission would advise that the Secretary of State's office be consulted as to who the law would consider to be a lobbyist.

Further, it does not appear that either the partnership, corporation, partner, or shareholder is restricted from hosting a fund-raising event for a candidate if none of them is the lobbyist principal. Limits as established in Section 8-13-1314(A)(1) apply to contributions by such persons.

As to question 5, it does not appear that a PAC to which a lobbyist contributes would be prohibited from contributing to a public officeholder. Such contribution to a candidate by a PAC would not appear to violate Section 8-13-1314(a)(3).

F:\APPS\WPWIN60\ADVISORY\AO92007N.NEW