

ADVISORY OPINION NO.90-191

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JANUARY 3, 1991

GOVERNMENTAL BODY SEEKING OPINION

The President of a State Lobbying Association

OPINION SOUGHT

- a. Whether a video presentation that urges employees of member companies of an Association to contact their local legislators regarding issues pertaining to the Association's industry would be considered grassroots lobbying and subject them to the registration and reporting requirements?
- b. Whether it is a violation of the Ethics Act for an Association to give a donation to a bona fide non-profit charitable organization registered with the Secretary of State's Office in the name of a public official?

OTHER FACTS RELIED UPON BY THE COMMISSION

The Association plans to produce and distribute to its member companies a video presentation of issues that will affect their industry during the upcoming legislative session. This video will urge employees to contact their local legislators regarding how these issues affect their individual companies. The video is intended to be shown to the employees of the member companies and is not appropriate for general public distribution. The cost of the video production will exceed the threshold limits of the grass roots lobbying provisions.

The Association occasionally arranges for elected public officials to participate in speaking engagements or panel discussions. Since the Ethics Act prohibits the giving of honorariums to elected public officials, the Association would like to give a donation to charitable organization in the public official's name. Such donations would serve to recognize and reward the public official for his or her efforts and would only be made to a bona fide non-profit registered with the Secretary of State's Office.

### PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-3-5 states in pertinent part that...any person who has made expenditures, not required to be reported under other sections of this chapter, exceeding **five hundred dollars** in the aggregate within any three month period or exceeding **two hundred dollars** in the aggregate within any one month period in presenting a program **addressed to the public**, a substantial portion of which is intended, designed or calculated primarily to influence legislation, shall be required to register and report...as a sponsor of a grass roots lobbying campaign.

West Virginia Code Section 6B-2-5(c)(3) states in pertinent part that...The acceptance of an honorarium by an elected public official is prohibited. The commission shall, by legislative rule, establish guidelines for the acceptance of reasonable honorariums by all other public officials and public employees other than elected public officials.

### ADVISORY OPINION

#### GRASSROOTS LOBBYING

a. The Commission has determined that a video presentation which will urge employees of member companies of an Association to contact their local legislators regarding issues pertaining to the Association's industry would **not** be considered a grass roots lobbying campaign. Although the intent of the video presentation is to influence legislation, the presentation is addressed to the employees of the member companies. This represents a large but select group of individuals and not to the public as required by the Ethics Act.

The Ethics Act requires persons to register as sponsors of a grass roots lobbying campaign, if they make expenditures of a certain level "in presenting a program address to the public" in an effort to influence legislation.

Clearly the production and dissemination of the video is intended to influence legislation. If it were designed for distribution to the public generally, those responsible for its production and distribution would be required to register as sponsors of a grass roots lobbying campaign.

Since the message of the video is aimed at, and its presentation will be confined to the employees of the Association's members Companies, the Commission finds that the program is not addressed to the public, as required by the Ethics Act.

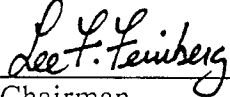
Therefore, regardless of the expenditures made by the Association for the presentation of this program to the member companies, the Association is not required to register and report such expenditures to the Ethics Commission.

## HONORARIUM

b. Pursuant to subsection 6B-2-5(c)(3) of the Ethics Act an elected public official is prohibited from accepting an honorarium. The reasoning behind such prohibition is that a public official should not benefit from his position.

However, in this instance the Lobbying Association would like to make a contribution to a charitable organization in the public official's name, in place of an honorarium. The benefit of the donation would be received by a charitable organization, with no direct pecuniary benefit to the elected public official.

Therefore, the Commission has determined that it would not be a violation of the Ethics Act for a Lobbying Association to make a contribution to a charitable organization in the public official's name, in lieu of an honorarium since this would not result in a gift or any pecuniary benefit being given to the public official.

  
Chairman