



MISSOURI ETHICS COMMISSION

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Julie A. Allen

Executive Director

February 7, 2011

Opinion No. 2011.02.L.001

At the February 4, 2011 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your questions:

A branch office of a large law firm with multiple locations hosts a social event, which includes a golf tournament and luncheon, for area legislators and judges. The event is held for social purposes and not to lobby any legislator or judge. The attorneys hosting the event are not registered lobbyists. The expenses incurred by the firm include the legislators' and judges' golfing fees, meal expenses, and other expenses associated with hosting the event. Such law firm has attorneys who are registered lobbyists. Must the expenses incurred on behalf of the legislators and judges by the firm for the event be reported by the firm's registered lobbyist to the Ethics Commission? Does the attendance of the firm's registered lobbyist (s) at the event have any effect on the reporting requirement?

According to §105.473.3(1), RSMo:

During any period of time in which a lobbyist continues to act as an executive lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the lobbyist shall file with the commission on standardized forms prescribed by the commission monthly reports which shall be due at the close of business on the tenth day of the following month;

(a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all public officials, their staffs and employees, and their spouses and dependent children, which expenditures shall be separated into at least the following categories by the executive branch, judicial branch and legislative branch of government: printing and publication expenses; media and other advertising expenses; travel; the time, venue, and nature of any entertainment; honoraria; meals, food and beverages; and gifts;

c) An itemized listing of the name of the recipient and the nature and amount of each expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of value, for all expenditures made during any reporting period, paid or provided to or for a public official or elected local government official, such official's staff, employees, spouse or dependent children;

(d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions and the identity of the group invited, the date, location, and description of the occasion and the amount of the expenditure for each occasion when any of the following are invited in writing:

a. All members of the senate, which may or may not include senate staff and employees under the direct supervision of a state senator;

b. All members of the house of representatives, which may or may not include house staff and employees under the direct supervision of a state representative;

c. All members of a joint committee of the general assembly or a standing committee of either the house of representatives or senate, which may or may not include joint and standing committee staff;

d. All members of a caucus of the majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate;

e. All statewide officials, which may or may not include the staff and employees under the direct supervision of the statewide official;

The answer to your questions depends on whether the law firm serves as a lobbyist principal to registered lobbyists. §105.470(7) RSMo defines a "lobbyist principal", as any person, business entity, governmental entity, religious organization, nonprofit corporation or association who employs, contracts for pay or otherwise compensates a lobbyist." In the scenario as presented, you state that "such law firm has attorneys who are registered lobbyists." In the event that the attorneys are registered lobbyists on behalf of the law firm, the firm is a lobbyist principal. You should also review the categories of lobbyist registration under §105.470 RSMo which includes legislative, executive, judicial and elected local government official lobbyist, and determine if the attorneys are registered under those categories.

§105.470(8) RSMo defines a public official as:

Any member or member-elect of the general assembly, judge or judicial officer, or any other person holding an elective office of state government or any agency head, department director or division director of state government or any member of any state board or commission and any designated decision-making public servant designated by persons described in this subdivision.

In your example you state that the firm is hosting a social event, which includes a golf tournament and luncheon, for area legislators and judges. Therefore the legislators and judges fall within the definition of public official. The definition of an expenditure can be found in §105.470(3) RSMo. The definition provides the following example which is not an expenditure:

The transfer of any item, provision of any service or granting of any opportunity with a reasonably discernible cost or fair market value when such item, service or opportunity is necessary for a public official or employee to perform his or her duty in his or her official capacity, including but not limited to entrance fees to any sporting event, museum, or other venue

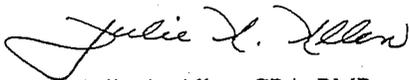
when the official or employee is participating in a ceremony, public presentation or official meeting therein;

Because you describe this event solely as a social event, it is assumed that this event qualifies as an "expenditure." Because the firm serves as a lobbyist principal and is incurring expenses on behalf of public officials, the lobbyists for that principal would report any expenditures the lobbyist principal makes on behalf of the public official, regardless of the fact that this is considered a social event and is not held to lobby any official. This must be reported regardless of whether the registered lobbyist attends the event, or pays for any portion of the event.

You should consult the requirements of §105.473.3(1)(a) and (d), RSMo. to determine whether the expenditures should be reported individually or qualifies as a group expenditure. While the statute allows a lobbyist to report certain group expenditures on behalf of members of the General Assembly, statewide officials, and staff, the statute does not include the reporting of group expenditures on behalf of judges.

You should also consult MEC Opinion 1996.01.105 which states that a corporation, association or membership organization may provide amenities for public officials, and the lobbyist for the organization must report such expenditures. The recipient must also report travel expenses, if incurred outside the State of Missouri and motel and living expenses, along with any honorarium or gift valued at more than \$200.00, on their Personal Financial Disclosure statement.

Sincerely,



Julie A. Allen, CPA, PMP
Executive Director