



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-19

### Retention of a Fee or Honorarium by a State Employee

Robert M. Langer, the Assistant Attorney General in charge of Antitrust and Consumer Protection, has asked the Ethics Commission for an advisory opinion regarding the following situation.

Earlier this year, Attorney Langer submitted an article to The New York Times Connecticut Op. Ed. Department. In submitting the article, which related to recent antitrust developments, Attorney Langer identified himself by his state position. Prior to the article's submission, he had sought and received permission from the Acting Attorney General to submit the article for publication. On May 7, 1989, the article, "Assembly Must Fill the Antitrust Void", appeared in the Times. Although Attorney Langer did not request to be compensated for the article in question, he has been sent a fee of one hundred dollars by the Times. He now wishes to know whether it would be proper under the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I, for him to accept this payment.

Those senior public officials and state employees subject to the disclosure requirements of Conn. Gen. Stat. §1-83 are implicitly permitted to accept fees and honorariums, since §1-83 mandates the reporting of such payments. However, the Assistant Attorney General in charge of Antitrust and Consumer Protection is not currently subject to §1-83. It has been the Ethics Commission's consistent holding that those public officials and state employees not covered by §1-83 are barred from accepting fees and honorariums offered by virtue of official position. See, e.g., Ethics Commission Advisory Opinion No. 82-3, 43 Conn. L.J. No. 39, p. 9B (March 30, 1982).

Therefore, in order to decide whether Attorney Langer may properly retain the payment in question, it must be determined whether the fee was solely a result of his expertise or whether it was generated, in whole or in part, by the fact that the article's author was Connecticut's chief antitrust official. According to Ms. Geraldine Shanahan of the Times Connecticut

Op. Ed. Department, the article in question was selected for publication in part because of its content and in part because the official position of its author lent credibility and weight to the views being set forth in the piece. Ms. Shanahan, who made the decision to publish the May seventh article, was unable to state with any certainty whether she would have decided to print the piece but for Attorney Langer's official position.

Since the payment in question resulted in part because of Attorney Langer's state position, its retention would be an improper use of public office for financial gain in violation of §1-84(c) of the Code. This ruling is in no way intended to limit the Attorney General's office from granting Attorney Langer appropriate compensation, if it deems the article in question to have been written as part of the Assistant Attorney General's official duties.

By order of the Commission,



William A. Elrick  
Chairperson

Dated 7-17-89