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April 30, 1997

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ADVISORY OPINION NO. 97-28

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Conflict Of Interests/County Commissioner
Employed With 3M Serving As Lobbyist On
Behalf of 3M Corporation.

A County Commissioner employed with 3M may serve as a lobbyist on behalf of 3M in implementing a "Grass Roots Legislative Connection"; provided, he register as a lobbyist with the Alabama Ethics Commission as required by Section 36-25-19, Code of Alabama, 1975, should he be actively attempting to influence the enactment or defeat of specific legislation and not merely exercising his constitutional rights under the *First Amendment*; and provided further, that all lobbying activities done on behalf of 3M are done as an employee of 3M and not as a County Commissioner or with the use of the mantle of his office, and that no lobbying activities are undertaken while he is serving as a County Commissioner. In addition, there may be no use of County equipment, facilities, time, materials, human labor, or other public property under his discretion or control to assist him in his lobbying activities.

Joan Lang
Advisory Opinion No. 97-28
Page two

Dear Ms. Lang:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May a member of the Lawrence County Commission, who is also employed at the 3M Plant in Decatur, Alabama, participate as a lobbyist in a "Grass Roots Legislative Connection"?

FACTS AND ANALYSIS

Mose Jones is a County Commissioner in Lawrence County, Alabama. He also works at the 3M Plant in Decatur, Alabama. 3M is presently initiating a "Grass Roots Legislative Connection" which will involve lobbying legislators concerning legislation beneficial to 3M and its employees. Commissioner Jones would like to know if it would be a conflict of interests for him to participate in this program.

The program to be implemented by 3M is a voluntary program for employees and retirees to make their voices heard in the halls of the Capitols of Montgomery and Washington, D.C. It has been created to help individuals inform 3M employees of important issues which affect 3M's business jobs and provides a communication link between employees and legislators. The program has two basic components:

- (1) The Legislative Contact Program, which involves writing and calling legislators on bills of importance to 3M, and of importance to those who work or have worked for 3M; and
- (2) The District Contact Program which emphasizes getting to know State Legislators in employees of 3M's home districts.

Grass Roots volunteer participants will provide their legislators with information about pending legislation or regulatory proposals and their impact on 3M. They recommend participants take action by the following:

- (1) Writing a letter that explains, in their own words, how a bill or policy affects that employee and 3M;

- (2) By making a phone call to their legislator's office and notifying him/her of their views;
- (3) Participating in a plant tour for their legislator; and
- (4) Participating in face-to-face meetings with their legislator to state their concerns about an issue.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(17) defines lobbying as the following:

"(17) LOBBYING. The practice of promoting, opposing, or in any manner influencing or attempting to influence the introduction, defeat, or enactment of legislation before any legislative body; opposing or in any manner influencing the executive approval, veto, or amendment of legislation; or the practice of promoting, opposing, or in any manner influencing or attempting to influence the enactment, promulgation, modification, or deletion of regulations before any regulatory body; provided, however, that providing public testimony before a legislative body or regulatory body or any committee thereof shall not be deemed lobbying."

Likewise, Section 36-25-1(18)(a) defines a lobbyist as:

"(18) LOBBYIST.

a. The term lobbyist includes any of the following:

1. A person who receives compensation or reimbursement from another person, group, or entity to lobby.
2. A person who lobbies as a regular and usual part of employment, whether or not any compensation in addition to regular salary and benefits is received.
3. A person who expends in excess of one hundred dollars (\$100) for a thing of value, not including funds expended for travel, subsistence expenses, and literature, buttons, stickers, publications, or other acts of free speech, during a calendar year to lobby.
4. A consultant to the state, county, or municipal levels of government or their instrumentalities, in any manner employed to influence legislation or regulation,

regardless of whether the consultant is paid in whole or part from state, county, municipal, or private funds.

5. An employee, a paid consultant, or a member of the staff of a lobbyist, whether or not he or she is paid, who regularly communicates with members of a legislative body regarding pending legislation and other matters while the legislative body is in session."

Section 36-25-1(18)(b) excludes from the definition of a lobbyist the following:

"b. The term lobbyist does not include any of the following:

1. A member of a legislative body on a matter which involves that person's official duties.
2. A person or attorney rendering professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, or rules or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.
3. Reporters and editors while pursuing normal reportorial and editorial duties.
4. Any citizen not expending funds as set out above in paragraph a.3. or not lobbying for compensation who contacts a member of a legislative body, or gives public testimony on a particular issue or on particular legislation, or for the purpose of influencing legislation and who is merely exercising his or her constitutional right to communicate with members of a legislative body.
5. A person who appears before a legislative body, a regulatory body, or an executive agency to either sell or purchase goods or services.
6. A person whose primary duties or responsibilities do not include lobbying, but who may, from time to time, organize social events for members of a legislative body to meet and confer with members of professional organizations and who may have only irregular contacts with members of a legislative body when the body is not in session or when the body is in recess."

From the facts as presented, if Commissioner Mose Jones intends on actively promoting or opposing, or in any manner attempting to influence the introduction, defeat, or enactment of

legislation, he must register as a lobbyist with the Alabama Ethics Commission.

As defined in Section 36-25-1(18)(b)(4), should the Commissioner be merely exercising his constitutional rights as a citizen, he is not required to register as a lobbyist with the Alabama Ethics Commission.

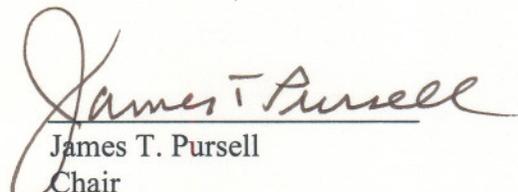
The above notwithstanding, should a County Commissioner employed by a private enterprise undertake lobbying activities on behalf of his employer, he may not use the mantle of his position as County Commissioner to assist or attempt to influence the outcome of his lobbying activities.

CONCLUSION

A County Commissioner employed with 3M may serve as a lobbyist on behalf of 3M in implementing a "Grass Roots Legislative Connection"; provided, he register as a lobbyist with the Alabama Ethics Commission as required by Section 36-25-19, Code of Alabama, 1975, should he be actively attempting to influence the enactment or defeat of specific legislation and not merely exercising his constitutional rights under the *First Amendment*; and provided further, that all lobbying activities done on behalf of 3M are done as an employee of 3M and not as a County Commissioner or with the use of the mantle of his office, and that no lobbying activities are undertaken while he is serving as a County Commissioner. In addition, there may be no use of County equipment, facilities, time, materials, human labor, or other public property under his discretion or control to assist him in his lobbying activities.

AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on April 30, 1997.


James T. Pursell
Chair
Alabama Ethics Commission