



ADVISORY OPINION 07-10

Interpretation of T.C.A. § 3-6-301, *et seq.*
with respect to whether an employee
of a public relations firm must register
as a lobbyist when arranging introductory
meetings between clients and state officials.

INTRODUCTION:

The following Advisory Opinion is written in response to a request from Ms. Rachel Lassiter of McNeely Piggot & Fox Public Relations, L.L.C. (“McNeely”) with regard to whether McNeely employees must register as lobbyists when arranging meetings between a client and executive branch officials.

In response to the above question, the Tennessee Ethics Commission (“Commission”) concludes that McNeely employees are not required to register as lobbyists when engaged in marketing the client to the state and arranging meetings between the client and executive branch officials, as they are not attempting to influence an administrative action, as defined in T.C.A. § 3-6-301(1).¹

BACKGROUND:

Ms. Lassiter states that McNeely is a public relations firm that assists clients in raising their profile in the Nashville area through activities such as arranging interviews with the media, speaking arrangements with various community organizations, and networking with other businesses and organizations. Its clients regularly respond to Requests for Proposals (“RFPs”) issued by state entities. McNeely wishes to arrange meetings between a client and officials of those state departments and agencies that the client is not currently doing business with, for the purpose of providing the state officials with information about the client’s business, services, background and reputation.

DISCUSSION:

Is an employee of a public relations firm required to register as a lobbyist when arranging introductory meetings between clients and executive branch officials?

Under the facts provided by Ms. Lassiter, the client wishes to be introduced to executive branch officials with whom the company is not currently doing business, and for which no RFP is currently pending, in the hope that, should the client respond to an RFP or otherwise seek to do business with the department or agency in the future, the decision maker for the department or agency will already have a familiarity with, and a favorable impression of the client.

Lobbying, by its definition as set forth in T.C.A. § 3-6-301(15)(A), must involve a communication for the purpose of influencing an administrative action. The statute, at § 3-6-301(1), defines an

¹ Under the facts provided, McNeely does not attempt to communicate with legislators, or arrange for communication between its clients and legislators, and, thus, this Advisory Opinion is limited to an analysis of lobbying as it relates to executive branch officials.

TENNESSEE ETHICS COMMISSION

ADVISORY OPINION NO. 07-10

September 27, 2007

Page 2 of 2

administrative action as “the taking of any recommendation, report or nonministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government; however, "administration action" does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of state government.”

It appears that the introductory meetings arranged by McNeely between its client and agencies with which the client currently conducts no business are analogous to the general marketing engaged in by virtually all businesses, and thus, if the meeting is only to provide client background information, it would appear that the communications are not to influence an administrative action and McNeely need not register as a lobbyist. A contrary result would require that any entity that uses a public relations firm to assist it with providing generalized information to the state of Tennessee, either in person or through written materials, would be required to register as an employer of a lobbyist, and the public relations representative would be required to register as a lobbyist. Instead, as long as McNeely’s introductory meetings are limited in scope to the provision of generalized information about the client, McNeely’s employees are not required to register as a lobbyist for the client.

However, there is an important caveat. Neither McNeely nor the client can recommend to the agency that they procure a service or good, terminate an existing business relationship, postpone a decision, or communicate on any other matter that could “influence an administrative action”. Thus, it is not the introductory meeting in and of itself that may give rise to a need to register as a lobbyist; rather, it is the substance of the communications made at such time.

Thomas J. Garland,
Chair

R. Larry Brown

Donald J. Hall

Linda Whitlow Knight, Esq.

Dianne Ferrell Neal

Benjamin S. Purser, Jr.

Commissioners

Date: September 27, 2007