

ADVISORY OPINION NO. 90-165
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON OCTOBER 4, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Chairman of a City Council Committee

OPINION SOUGHT

Whether a public official is required by West Virginia Code 6B-2-7(3) to identify on the financial disclosure statement the specific names of every source of income received by him over \$5,000?

OTHER FACTS RELIED UPON BY THE COMMISSION

A City Council Committee has requested an advisory opinion to clarify an issue raised in Advisory Opinion No. 89-116 with respect to the meaning of the term disclosing every source of income over \$5,000 "by category" as it appears on the financial disclosure statement.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-7(3) states in pertinent part that...the identification, by **category**, of every source of income over five thousand dollars received during the preceding calendar year, in his or her own name or by any other person for his or her use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. This subsection does not require a person filing the statement who derives income from a business, profession or occupation to disclose the **individual sources and items of income that constitute the gross income of that business, profession or occupation.**

ADVISORY OPINION

The Commission relies on Advisory Opinion No. 89-116 which was issued on February 1, 1990 when addressing this issue and maintains its previous decision in this opinion.

Subsection 6B-2-7(3) provides that every source of income over \$5,000 must be identified by category, that is received by the individual in his name or by any other person for his use or benefit by the person filing the statement accompanied by a brief description of the nature of the services for which the income was received. However, the person filing the statement is not required to disclose individual sources and items of income that constitute the gross income of a business, profession or occupation.

The Council Members ask if an individual earns more than \$5,000 in dividend income in a year whether he is required to disclose the names of each company from which the Council Member earned. It is the Commission's opinion that the Act requires an individual to disclose the source of income (over \$5,000) and include a brief description of the nature of the services for which the income was received, for example:

Source : XYZ Corporation
Service Performed: Dividends or,

Source: Friendly National Bank
Service Performed: Interest on Savings Account or,

Source: John Jones Trust
Service Performed: Trust Income

Therefore, it would not be necessary to list each stock holding, but to list on the financial disclosure statement the name of the **investment company or business**. For example, if an individual purchased AT&T stock, Kaiser Aluminum stock, and Union Carbide stock from investment company ABC, it would only be necessary to identify it on the disclosure statement as follows:

Source: Investment Company ABC
Service Performed: Stock Dividends

Although, an individual is required to disclose each source of income, he or she is not required to disclose exact dollar amounts received. The only requirement for disclosure is that the total income received per year from that category must be over \$5,000.

Furthermore, regarding income derived from a business, profession or occupation, the individual should name the source of income, such as the name of the business and not individual accounts, clients or customers of the business or profession. Specifically attorneys, doctors and psychologists should list each practice separately but, are not required to disclose their clients or patients' names, for example:

Source: Smith and Jones Law Firm
Service Performed: Private Law Practice or,

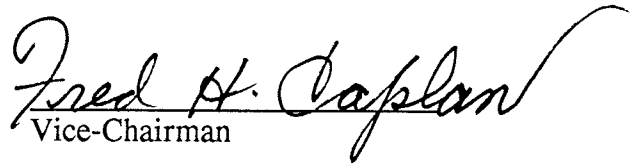
Source: Medical Clinic
Service Performed: Private Medical practice or,

Source: Quick Sale Realty
Service Performed: Real Estate Sales

Therefore, the public official in Smith and Jones Law Firm would not have to list individual client's names where income was received over \$5,000 but simply list the business as noted above.

The Legislature has previously determined in the Ethics Act as amended in June 1990 that a spouse's source or amount of income does not need to be disclosed by the individual filing the statement.

The Commission would note that the Legislature stated in drafting the Ethics Act that each source of income need only be listed by category. The purpose of a public official or employee filing a financial disclosure statement is to allow the public access to such relevant information and to determine whether a conflict of interest exists. The only way to make an accurate determination or investigation as to possible conflicts is when more specific information is included on the financial disclosure statement. Otherwise, the financial disclosure form would be meaningless and of no assistance to the public. Therefore, it is the Commission's opinion that a public official or employee must identify the specific names of every source of income received by him over \$5,000.


Vice-Chairman