

CONFLICT OF INTEREST: The phrase "which exceeds fifty
LOBBYING: dollars on any one occasion or
 instance or two hundred fifty
dollars in the aggregate for any reporting period" in Section
105.470.4(2), RSMo, as enacted by Senate Committee Substitute
for House Committee Substitute for House Bills Nos. 1650 and
1565, 85th General Assembly, Second Regular Session (1990)
modifies the terms "expenditure, gift, payment, line of credit
or loan . . . including a service or anything of value"

November 29, 1990

OPINION NO. 197-90

Richard G. Callahan
Cole County Prosecuting Attorney
Cole County Courthouse
301 East High Street
Jefferson City, Missouri 65101

Dear Mr. Callahan:

This opinion is in response to your question asking:

Whether the phrase in Section 105.470.4(2),
RSMo, as enacted by Senate Committee
Substitute for House Committee Substitute
for House Bills Nos. 1650 and 1565,
providing "which exceeds fifty dollars on
any one occasion or instance or two hundred
fifty dollars in the aggregate for any
reporting period," modifies the term
"service or anything of value" or whether
it modifies the terms "expenditure, gift,
payment, line of credit. . . ."

Section 105.470.4(2), RSMo, as enacted by Senate Committee
Substitute for House Committee Substitute for House Bills Nos.
1650 and 1565, 85th General Assembly, Second Regular Session
(1990), provides as follows:

4. By January fifteenth and July
fifteenth in each year in which a lobbyist
continues to engage in any activity
described in subdivision (3) of subsection
1 of this section, each lobbyist shall file
with the chief clerk of the house of
representatives and the secretary of the

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senate on standardized forms prescribed by the chief clerk and the secretary of the senate reports which shall include a sworn statement setting forth the following:

* * *

(2) An itemized listing of the name of the recipient and the nature and amount of each expenditure, gift, payment, line of credit or loan by the lobbyist or the person, business, association or government agency by whom he is employed, including a service or anything of value which exceeds fifty dollars on any one occasion or instance or two hundred fifty dollars in the aggregate for any reporting period, paid or provided to or for a public official, his staff and employees, or his spouse or dependent children; [Emphasis added.]

* * *

Construing this statute to ascertain legislative intent raises the question of whether the doctrine of the "last antecedent" applies. This rule of statutory construction holds that "relative and qualifying words, phrases or clauses are to be applied to the words or phrase immediately preceding and are not to be construed as extending to or including others more remote." Elliott v. James Patrick Hauling, Incorporated, 490 S.W.2d 284, 287 (Mo. App. 1973). Application of the rule to Section 105.470.4(2) would lead to the conclusion that the phrase "which exceeds fifty dollars on any one occasion or instance or two hundred fifty dollars in the aggregate for any reporting period" modifies the term "service or anything of value" rather than the more remote terms "expenditure, gift, payment, line of credit or loan. . . ." This interpretation would require reporting of all expenditures, gifts, payments, lines of credit or loans regardless of the amount involved.

The doctrine of the "last antecedent" is not inflexible. It has not been ". . . adhered to where extension to a more remote antecedent is clearly required by consideration of the entire act." Norberg v. Montgomery, 351 Mo. 180, 173 S.W.2d 387, 390 (Mo. banc 1943). "[T]he 'safest and surest' test to determine whether the general rule of the last antecedent or the exception thereto is to be applied is '. . . [a] common-sense interpretation . . . bearing always in mind the mischiefs to be

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remedied and the benefits to be secured by the law." Elliott v. James Patrick Hauling, Incorporated, supra, 490 S.W.2d at 287, quoting State ex rel. Crow v. St. Louis, 174 Mo. 125, 73 S.W. 623, 629 (Mo. 1903).

In examining the questioned phrase in the context of Section 105.470.4(2), we believe that a common sense interpretation requires the minimum amount of "fifty dollars on any one occasion or instance or two hundred fifty dollars in the aggregate for any reporting period" applies to the entire list of items enumerated in that section.

CONCLUSION

It is the opinion of this office that the phrase "which exceeds fifty dollars on any one occasion or instance or two hundred fifty dollars in the aggregate for any reporting period" in Section 105.470.4(2), RSMo, as enacted by Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1650 and 1565, 85th General Assembly, Second Regular Session (1990) modifies the terms "expenditure, gift, payment, line of credit or loan . . . including a service or anything of value"

Very truly yours,



WILLIAM L. WEBSTER
Attorney General