

State of California



Fair Political Practices Commission

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May 10, 1984

Sharon Quessenberry
Turner & Sullivan
1000 G Street, Suite 450
Sacramento, CA 95814

Re: FPPC No. A-84-121

Dear Ms. Quessenberry:

This is to confirm my advice to you regarding the lobbying disclosure provisions of the Political Reform Act.

During our telephone conversation you presented the following factual situation and question:

FACTS

The law firm of Turner & Sullivan has been hired by the California Health Facilities Commission, a state agency, to act as its general counsel and lobbyist. The services provided by Turner & Sullivan on behalf of the California Health Facilities Commission may be provided by several different employees of Turner & Sullivan, some of whom are registered lobbyists. You indicated that the employment contract is between the Commission and the firm of Turner & Sullivan, and that no individual employees of Turner & Sullivan are named in the contract.

QUESTION

You have asked the following questions: By virtue of the lobbying services that Turner & Sullivan will be providing the California Health Facilities Commission, must the Turner & Sullivan employees who are registered lobbyists amend their Lobbyist Registration Statements to include the California Health Facilities Commission as an employer? Must Turner & Sullivan, a retained entity, report the payments received from the Commission on its quarterly lobbying disclosure reports?

CONCLUSION

Gov. Code Section 86300 provides that the lobbying disclosure provisions of the Political Reform Act are not applicable to:

- (a) ...any employee of the State of California acting within the scope of his employment...

This exclusion for employees of the State of California may, under certain circumstances, apply to consultants and outside counsel hired by a state agency. Under most circumstances, if a consultant is covered by the state agency's Conflict of Interest Code required by the Political Reform Act (Gov. Code Section 87300), the consultant will meet the definition of an "employee of the State of California" as used in Gov. Code Section 86300, and will not be required to register as a lobbyist. In addition, such consultants and outside counsel (who are designated in the agency's Conflict of Interest Code) who are already registered lobbyists are not required to report payments received from a state agency for lobbying services.

Therefore, the exclusion in Gov. Code Section 86300(a) will apply to Turner & Sullivan and its employees, so long as each employee who provides lobbying services to the California Health Facilities Commission is a "designated employee" in the Commission's Conflict of Interest Code.

If, however, any employee of Turner & Sullivan who is not designated in the Commission's Code provides lobbying services to the Commission, that employee must amend his or her Lobbyist Registration Statement to include the Commission as an employer. In addition, Turner & Sullivan must report the payments for lobbying received from the Commission and the payments to its employee on its quarterly report.

Finally, if the California Health Facilities Commission becomes an Employer of a Lobbyist because of lobbying services provided by a Turner & Sullivan employee who is not designated in the Commission's Conflict of Interest Code, the Commission must file quarterly disclosure reports and must report, in addition to the payments to Turner & Sullivan, any other payments in connection with influencing legislative or administrative action, such as salary payments to its employees who are engaged in such activities. (See Gov. Code Sections 82045 and 86109).

At the time of our telephone conversation, you did not know whether the California Health Facilities Commission was going to amend its Conflict of Interest Code to include any Turner &

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Sullivan employees as designated employees. When you have obtained this information from the Commission, please let me know.

Sincerely,

Jeanne Pritchard
Political Reform Consultant

JP:kt

cc: Joseph H. Hafkenschiel
Executive Director
California Health Facilities
Commission