



California Fair Political Practices Commission

June 10, 1986

Janie Hawker
Administrative Assistant
Sierra Club Legislative Office
1228 N Street, Ste. 31
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-86-159

Dear Ms. Hawker:

This is in response to your letter of April 30, 1986, which asks several questions regarding the lobbying disclosure provisions of the Political Reform Act (Government Code Sections 81000-91015). I hope the following information is helpful.

Your first question asks whether Michael Papanian, the director of the Sierra Club's Sacramento office and its registered lobbyist, may sign the Club's registration and disclosure reports. Government Code Section 81004 states that when a report or statement is filed by an entity, "the report or statement shall be signed and verified by a responsible officer of the entity or by an attorney or a certified public accountant."

As the director of the Sierra Club's Sacramento office, it would appear that Mr. Papanian qualifies as a "responsible officer" of the organization. However, the Sierra Club is the entity responsible for filing reports and statements and it is therefore the Club's responsibility to determine if Mr. Papanian is authorized to sign the Club's lobbying disclosure report under penalty of perjury and to verify on its behalf that the Club "has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete." (Government Code Section 81004(a).)

Your second question asks for clarification of the new method for reporting on the Report of Lobbyist Employer (Form 635) campaign contributions made by the Sierra Club's two sponsored political action committees. Effective January 1, 1986, Government Code Section 86116(i) requires lobbyist employers to disclose each quarter:

Ms. Hawker
June 10, 1986
Page Two

The date, amount, and name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee, and the identification number of the committee. (Emphasis added.)

This section means that contributions which have already been reported on a campaign disclosure statement filed by the Sierra Club or its sponsored committees are not required to be listed on the Club's Report of Lobbyist Employer (Form 635). You need only list the name(s) and identification number(s) of the committee(s). The following example may assist you with respect to reporting campaign contributions:

On February 1, 1986, the California Sierra Club Committee on Political Education (CAL/SCOPE) makes two contributions of \$250 each to candidates for State Senate. According to the campaign disclosure provisions of the Act, CAL/SCOPE must file a campaign disclosure statement no later than March 22, 1986, covering the period January 1, 1986 through March 17, 1986. On March 25, CAL/SCOPE makes a \$100 contribution to a candidate for State Assembly.

On its Form 635 for the first quarter of 1986, the Sierra Club is not required to itemize in Part IV (Contributions Made) the two \$250 contributions which have already been disclosed on CAL/SCOPE's campaign disclosure statement. Instead, CAL/SCOPE's name and identification number should be provided. The \$100 contribution made on March 25 has not been reported on a campaign disclosure statement and must, therefore, be itemized in Part IV of the Form 635.

Your third, fourth and fifth questions relate to a new provision of the law which requires lobbyist employers to disclose on their quarterly reports the names and titles of owners, officers or employees (whether or not they are lobbyists) who have engaged in direct communication during the period with any elective state official, legislative official or agency official for the purpose of influencing legislative or administrative action on the employer's behalf.

Ms. Hawker
June 10, 1986
Page Three

At its meeting today, the Commission adopted a new regulation, 2 Cal. Adm. Code Section 18616.5 (copy enclosed), which limits this reporting requirement with respect to non-lobbyist employees. In the future, a non-lobbyist employee must only be listed on the Form 635 if the employee 1) spends 10 percent or more of his or her compensated time in any calendar month engaged in lobbying activities; and 2) engages in direct communication during the period with an elective state official, legislative official or agency official for the purpose of influencing legislative or administrative action on behalf of his or her employer. The Commission also direct the staff to determine whether a similar regulation should be proposed with regard to a lobbyist employer's owners, officers or partners. Please contact the Commission's Legal Division at 322-5901 at the end of this month if you would like to receive information on this proposed regulation.

Currently, an officer of the Club (including members of the Club's Board of Directors) must be listed on the Club's disclosure report, whether the officer is salaried or not, if he or she engages in direct communication with an elective state official, legislative official or agency official on behalf of the Sierra Club for the purpose of influencing legislative or administrative action. FPPC regulation 2 Cal. Adm. Code Section 18239(d) defines "direct communication" as:

... appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquiries from, any qualifying official, either personally or through an agent who acts under one's direct supervision, control or direction. Direct communication does not include any request for or provision of purely technical data or analysis to an administrative agency by a person who does not otherwise engage in direct communication for the purpose of influencing legislative or administrative action.

The "contacts test" mentioned in question (3) of your letter is also contained in regulation Section 18239, but is only used for purposes of determining whether an individual qualifies and should be registered as a lobbyist. A copy of the regulation is enclosed.

Finally, question (5) of your letter states that you intend to list on Form 635 the names of employees "whose job descriptions and responsibilities may give them reason to make

Ms. Hawker
June 10, 1986
Page Four

legislative and/or agency and administrative contacts." Please list only those officers or employees who have actually engaged in direct communication on behalf of the Sierra Club during the period covered by the report. Do not list persons who have not engaged in direct communication during the period. With respect to recordkeeping in connection with direct communication, you are not required to record the names of persons with whom Club officers or employees engaged in direct communication or the subject matter of such communications.

Please call me at 322-5662 if you have additional questions.

Sincerely,

Carla Wardlow

Carla Wardlow
Political Reform Consultant

CW:cah



by Ansel Adams

SIERRA CLUB

LEGISLATIVE OFFICE

1228 N Street, Suite 31
Sacramento, California 95814
(916) 444-6906



April 30, 1986

Fair Political Practices Commission
428 J Street, 7th Floor
Sacramento, CA 95814

Dear Sir/Madam:

Sierra Club headquarters in San Francisco recently delegated responsibility for filing Lobbyist Employer forms to this, the Club's Sacramento Office. That fact, along with the 1986 changes to both employer and lobbyist reporting requirements, makes it necessary for us to request a clarification and/or opinion on several points.

(1) We have been assured, through telephone communication with your office, that the Director of the Sierra Club's Sacramento Office, Michael Paparian, does qualify as the "verifier and signer" of the Lobbyist Employer Reports (Forms 635, 603, 605).

Mr. Paparian is a full-time employee of the Sierra Club and apportions his professional responsibilities between administrative, organizational and lobbyist activity. He is the only Club employee who has an overall knowledge of the legislative and administrative action the Club is trying to influence in California.

(2) We would like to be assured that our understanding is correct with regard to the reporting of contributions. The Sierra Club has registered two political action committees in California: CAL/SCCOPE (California Sierra Club Committee on Political Education), I.D.# 821172 and, SCCOPE-Angeles Chapter, I.D.#820579. CAL/SCCOPE is the political action committee for 12 of the 13 Sierra Club chapters in California. Angeles Chapter opted to establish their own PAC. Each of the two Club PAC's files Campaign Disclosure Statements.

From telephone conversations with your office we understand that we should file either the names and identification numbers of the two Sierra Club PACs or, report the contributions they have made on the Quarterly Report (Form 635). We understand that we must also report any contributions made by these committees on those occasions when the deadline for filing the Campaign Disclosure Statement is not the same as for the end-of-quarter Lobbyist Employer's Form 635.

(3) We would appreciate a clarification on the FPPC meaning of the term "officers" as used within the context of the 1986 FPPC Manual (page 19) and, in the Lobbying Newsletter (March 1986, Vol.8, No.1) with particular application to the organizational structure of the Sierra Club.

The Sierra Club is a grassroots, public interest organization, incorporated under California law. It has "officers" among both the paid professional staff and among the guiding, volunteer leadership. Examples of Sierra Club volunteer officers might include the President of the Club, the Club's 15 member Board of Directors, the Club's Treasurer, and others. Salaried officers could include the Club's Chairman, Executive Director, Controller, and others.

We have assumed that the FPPC is only concerned with paid officers of our organization and that it is not necessary to report activities of those officers who volunteer their time to the Sierra Club.

Therefore, please confirm our understanding with regard to the reporting of the activities of officers of the Club; the question of "contacts" and/or the "contacts test"; and the definition of "direct communication (to influence)" as applied to our concerns with the definition of "officers" of the Sierra Club.

(4) Based on our understanding, the Sierra Club does not intend to report on the activities of other Sierra Club representatives who are not paid for what they do on behalf of their Club interests.

(5) Based on our understanding, the Sierra Club - on the quarterly report (Form 635)- will provide the names of Club employees whose job descriptions and responsibilities may give them reason to make legislative and/or agency and administrative "contacts" with "direct communication (to influence)." We do not intend to maintain any other direct records of their activities unless instructed otherwise.

Sincerely,



Janie Hawker
Administrative Assistant

:jh



California Fair Political Practices Commission

May 13, 1986

Janie Hawker
Sierra Club
Legislative Office
1228 N Street, Suite 31
Sacramento, CA 95814

Re: 86-159

Dear Ms. Hawker:

Your letter requesting advice under the Political Reform Act has been received on May 1, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact the Technical Assistance and Analysis Division at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

Jeanne Pritchard

Jeanne Pritchard
Chief

Technical Assistance and Analysis
Division

ljz jph

JP:plh