



# California Fair Political Practices Commission

September 24, 1986

Gordon Cologne  
Attorney at Law  
925 L Street, Suite 1150  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-86-267

Dear Mr. Cologne:

Thank you for your request for advice concerning the lobbying provisions of the Political Reform Act.<sup>1/</sup> Your letter to the Technical Assistance and Analysis Division has been referred to me for a response.

## QUESTION

May you accept payment from your client, a law firm, for your services as a lobbyist if the law firm then bills its client, a water company, for your fee?

## CONCLUSION

The law firm would be acting as the intermediary for payment from a person who is not listed on your lobbying firm registration statement. Therefore, you may not accept payment from the law firm if the law firm then bills the water company for your fee.

## FACTS

You are a registered lobbying firm operating as a sole proprietorship under the name Gordon Cologne & Associates. Best, Best & Krieger, a law firm, is a client listed on your registration statement. Best, Best & Krieger does considerable work in water and municipal law and occasionally refers a client to you when a legislative resolution seems appropriate. Best, Best & Krieger is not a registered lobbying firm. When a

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

client is referred to you, you register the client on your registration statement and bill the client directly. Best, Best & Krieger does not share in your fees in these matters. You have received no payments from Best, Best & Krieger for lobbying services. However, you share office space with them in San Diego and you are listed as "of counsel" on their letterhead.

Recently, you represented Best, Best & Krieger at a legislative committee hearing. The hearing concerned a bill affecting the Castaic Lake Water Agency. The Valencia Water Company, a client of Best, Best & Krieger, also had an interest in the legislation. You billed Best, Best and Krieger for your services. Best, Best & Krieger forwarded your bill to its client, the Valencia Water Company, because the law firm considered your services to be an additional cost of serving its client.

#### ANALYSIS

Each lobbying firm is required to register with the Secretary of State. Section 86100(b). The registration of a lobbying firm must include, among other things, the name of each person with whom the lobbying firm contracts to provide lobbying services and a signed authorization from that person. Section 86104(d). If the lobbying firm obtains a new client, the lobbying firm must amend its registration statement to reflect that new client and file the amended statement with the Secretary of State. The amendment must be filed before the lobbying firm attempts to influence any legislative or administrative action on behalf of that client. Section 86107(a).

You have inquired as to the propriety of your accepting payment directly from Best, Best & Krieger, if Best, Best & Krieger then bills the Valencia Water Company for your fee. In order to answer your question, we must examine the purpose of the client preregistration requirement in Section 86107(a).

The client preregistration requirement became effective September 29, 1985, upon the enactment of SB 659 (Ch. 1183, Stats. 1985). SB 659 was an urgency statute sponsored by the Commission. It repealed and reenacted, with comprehensive changes, the lobbying registration and reporting requirements. One of the changes made by this legislation was the addition of the client preregistration requirement in Section 86107(a).

Prior to the enactment of SB 659, a lobbyist was required to file an amendment to his or her registration statement

within 20 days after any change in the information contained in the statement occurred. Former Section 86103. Thus, under the prior law, a lobbyist could lobby on behalf of a new client before amending his or her registration statement, so long as an amendment to the statement was filed within 20 days after making the new contract.

The Commission received many complaints that this system failed to provide the public with accurate, up-to-date information about whose interests the lobbyist represented. For example, in the hectic, final two weeks of a legislative session, a lobbyist could lobby on behalf of a new client, but not amend his or her registration statement until after the session had ended. By that time, the client's bill may have been enacted. In response to these complaints, the Legislature established the client preregistration requirement in Section 86107(a).

In light of this express statutory change in the lobbyist registration requirements, we conclude that a lobbyist cannot provide lobbying services to, or accept payment from, any person who is not listed on his registration statement. To permit a lobbyist to accept payment for lobbying services from an unregistered client would render Section 86107(a) meaningless.

Accordingly, we conclude that Section 86107(a) prohibits you from accepting payment from Best, Best & Krieger if Best, Best & Krieger bills its client for your fee. In that situation, Best, Best & Krieger would be merely an intermediary for the payment from the Valencia Water Company. Because the Valencia Water Company was not listed as a client on your registration statement at the time you appeared before the legislative committee, you were prohibited from lobbying for consideration on behalf of the Valencia Water Company at that hearing. You are therefore prohibited from accepting payment from the Valencia Water Company for your services. Similarly, you may not accept payment from Best, Best & Krieger as the intermediary for the Valencia Water Company. Voluntary services, without compensation, are permitted. Section 82039.

We have also advised you that Best, Best & Krieger may not be a client of yours for purposes of the Act. If you have a contract with Best, Best & Krieger to lobby on their behalf, then you would be correct in listing that firm as your client. Section 86104(d). In that case, Best, Best & Krieger is a "lobbyist employer" and must file quarterly reports under the Political Reform Act. Sections 82039.5(b), 86115 and 86116. However, your agreement with Best, Best & Krieger appears to be

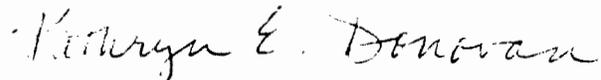
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more accurately characterized as a contract to represent Best, Best & Krieger's clients. You have also stated that you receive no payments from Best, Best & Krieger. Based on these facts, we conclude that you probably do not have a contract with Best, Best & Krieger to lobby on their behalf. If no such contract exists, you should amend your registration statement to delete Best, Best & Krieger from your list of clients.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel



By: Kathryn E. Donovan  
Counsel, Legal Division

DMG:KED:plh