



California Fair Political Practices Commission

August 8, 1988

Kirk Alan Pessner
Nielsen, Merksamer, Hodgson,
Parrinello & Mueller
650 California Street, Ste. 2650
San Francisco, CA 94108

Re: Your Request for Advice
Our File No. A-88-194

Dear Mr. Pessner:

You have requested advice concerning the lobbying disclosure provisions of the Political Reform Act.^{1/}

QUESTION

An event to be attended by public officials has been "arranged" by two of your law firm's lobbyists and a non-lobbyist employee has been designated to receive RSVP's. Must the law firm itemize the event on its quarterly lobbying firm disclosure report?

CONCLUSION

Under the facts presented in your letter, the firm is not required to itemize the event on its lobbying firm disclosure report (Form 625).

FACTS

Timothy Flanigan and James Gross, who are registered as lobbyists for the law firm/lobbying firm Nielsen, Merksamer, Hodgson, Parrinello & Mueller, plan to invite public officials to an event at which the officials will receive gifts valued at less

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Kirk Alan Pessner
Page Two

than \$10. The officials will be asked to contact the lobbyists' secretary to RSVP. Neither the lobbyists nor the firm will incur or pay any of the costs of the event. Each of the lobbyists will report the event as an activity expense on his quarterly report (Form 615). You have asked whether the secretary's activities will require disclosure of the event on the firm's quarterly report (Form 625).

ANALYSIS

Lobbyists, lobbying firms and lobbyist employers are required to file periodic reports disclosing, among other things, "activity expenses." (Section 86100 et seq.) "Activity expenses" are payments which benefit elective state officials, legislative officials, state candidates, certain agency officials or members of their immediate families. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions. (Section 86111.)

Section 86203 prohibits lobbyists and lobbying firms from making or arranging for the making of gifts to specified officials aggregating more than \$10 in a calendar month. "Arranging" for the making of a gift includes being "designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift." (Regulation 18624(e).)

However, under the facts you have presented, the secretary appears to be acting as an agent of the individual lobbyists. Therefore, the firm has neither paid for nor arranged for the making of a gift and has no obligation to disclose the event on its disclosure report. This conclusion might be different if someone other than the lobbyists' secretary were to be designated to receive RSVP's.

I hope this adequately answers your question. Please call me at (916) 322-5662 if you have additional questions.

Sincerely,

Diane M. Griffiths
General Counsel

Carla Wardlow

By Carla Wardlow
Political Reform Consultant

LAW OFFICES OF
NIELSEN, MERKSAMER,
HODGSON, PARRINELLO & MUELLER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

650 CALIFORNIA STREET SUITE 2650

SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE (415) 989-8800

SACRAMENTO

770 I STREET SUITE 800
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 446-8752

JUL 12 1 55 PM '88
FILE NUMBER

July 11, 1988

Ms. Carla Wardlow
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Re: Disclosure Of "Arranged" Activity Expenses

Dear Carla:

Timothy H. Flanigan and James C. Gross, both attorneys and registered lobbyists with this law firm, a registered lobbying firm, plan to extend an invitation to public officials to attend an event at which an activity expense benefiting those public officials will be incurred. The expenses will be under \$10.00 per person. The invitation contemplates asking that the public officials contact an employee in our firm to RSVP and that employee is in charge of making necessary arrangements for the event. Neither the lobbyists nor the firm will incur or pay any of the costs of this event.

These activity expenses, if undertaken, will be disclosed by both lobbyists on their Form 615 as being arranged but not paid by them. My question to you was whether the same activity expenses needed to be disclosed by the lobbying firm on our Form 625.

You confirmed that the lobbyists must report all activity expenses during the reporting period whether paid or incurred or arranged by them (Government Code section 86113(a)(1)). You then distinguished section 86113(a)(1) from Government Code section 86114(a)(5) which requires lobbying firms to only report activity expenses that it incurs and expects to pay.

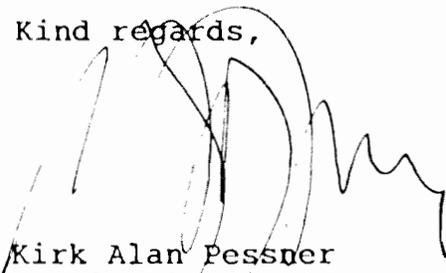
You advised me that an activity expense arranged by non-lobbyists in a lobbying firm did not need to be disclosed by the lobbying firm if the expense relating to the activity expense was not incurred or paid by the lobbying firm. You next clarified that this is what the 1988 Lobby Manual is suppose to mean when it requires lobbying firms to itemize "all activity expenses

Ms. Carla Wardlow
July 11, 1988
Page 2

arranged, incurred or paid (except those activity expenses which were paid, incurred or arranged by a lobbyist employed by the firm and which are itemized on the lobbyist's report)" (emphasis added), and you acknowledge that the word "arranged" should not have been included in this sentence (page 26).

If I have correctly stated the substance of our telephone conversation, kindly acknowledge this informal advice by signing this letter and returning it to me.

Kind regards,



Kirk Alan Pessner
Paralegal/Administrator
Political Reports Unit

KAP/tcm/32

Carla Wardlow

Date _____

LAW OFFICES OF
NIELSEN, MERKSAMER,
HODGSON, PARRINELLO & MUELLER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SACRAMENTO
770 L STREET, SUITE 800
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 446-6752

650 CALIFORNIA STREET, SUITE 2650
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 989-8806

MAY 23 6 35 1988
FILE NUMBER

5226.01

May 18, 1988

Ms. Carla Wardlow
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Re: Disclosure Of "Arranged" Activity Expenses

Dear Carla:

In our recent telephone conversation, I described a hypothetical situation to you in which lobbyist A and lobbyist B, both from the same lobbying firm, have extended an invitation to public officials to attend an event at which an activity expense benefiting those public officials will be incurred. The invitation asks that the public officials contact an employee in the lobbying firm to RSVP and that employee is in charge of making necessary arrangements for the event. Neither the lobbyists nor the lobbying firm will incur or pay any of the costs of this event.

These activity expenses will be disclosed by both lobbyists on their Form 615 as being arranged but not paid by them. My question to you was whether the same activity expenses needed to be disclosed by the lobbying firm on its Form 625.

You confirmed that the lobbyists must report all activity expenses during the reporting period whether paid or incurred or arranged by them (Government Code section 86113(a)(1)). You then distinguished section 86113(a)(1) from Government Code section 86114(a)(5) which requires lobbying firms to only report activity expenses that it incurs and expects to pay.

You advised me that an activity expense arranged by non-lobbyists in a lobbying firm did not need to be disclosed by the lobbying firm if the expense relating to the activity expense was not incurred or paid by the lobbying firm. You next clarified that this is what the 1988 Lobby Manual is suppose to mean when it requires lobbying firms to itemize "all activity expenses arranged, incurred or paid (except those activity expenses which

Ms. Carla Wardlow
May 18, 1988
Page 2

were paid, incurred or arranged by a lobbyist employed by the firm and which are itemized on the lobbyist's report)" (emphasis added), and you acknowledge that the word "arranged" should not have been included in this sentence (page 26).

If I have correctly stated the substance of our telephone conversation, kindly acknowledge this informal assistance by signing this letter and returning it to me.

Kind regards,



Kirk Alan Pessner
Paralegal/Administrator
Political Reports Unit

KAP/tcm/32

Carla Wardlow

Date _____

88-174

LAW OFFICES OF
**NIELSEN, MERKSAMER,
HODGSON, PARRINELLO & MUELLER-**
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
650 CALIFORNIA STREET, SUITE 2650
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 989-6800

SACRAMENTO
770 L STREET, SUITE 800
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 446-0752

JUL 12 7 59 AM '88

FILE NUMBER

July 11, 1988

Ms. Carla Wardlow
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Re: Disclosure Of "Arranged" Activity Expenses

Dear Carla:

Timothy H. Flanigan and James C. Gross, both attorneys and registered lobbyists with this law firm, a registered lobbying firm, plan to extend an invitation to public officials to attend an event at which an activity expense benefiting those public officials will be incurred. The expenses will be under \$10.00 per person. The invitation contemplates asking that the public officials contact an employee in our firm to RSVP and that employee is in charge of making necessary arrangements for the event. Neither the lobbyists nor the firm will incur or pay any of the costs of this event.

These activity expenses, if undertaken, will be disclosed by both lobbyists on their Form 615 as being arranged but not paid by them. My question to you was whether the same activity expenses needed to be disclosed by the lobbying firm on our Form 625.

You confirmed that the lobbyists must report all activity expenses during the reporting period whether paid or incurred or arranged by them (Government Code section 86113(a)(1)). You then distinguished section 86113(a)(1) from Government Code section 86114(a)(5) which requires lobbying firms to only report activity expenses that it incurs and expects to pay.

You advised me that an activity expense arranged by non-lobbyists in a lobbying firm did not need to be disclosed by the lobbying firm if the expense relating to the activity expense was not incurred or paid by the lobbying firm. You next clarified that this is what the 1988 Lobby Manual is suppose to mean when it requires lobbying firms to itemize "all activity expenses

Ms. Carla Wardlow

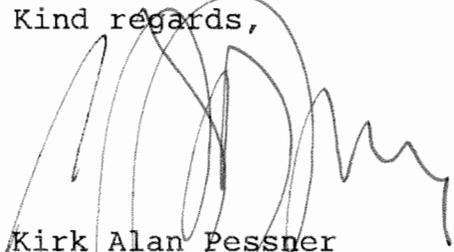
July 11, 1988

Page 2

arranged, incurred or paid (except those activity expenses which were paid, incurred or arranged by a lobbyist employed by the firm and which are itemized on the lobbyist's report)" (emphasis added), and you acknowledge that the word "arranged" should not have been included in this sentence (page 26).

If I have correctly stated the substance of our telephone conversation, kindly acknowledge this informal advice by signing this letter and returning it to me.

Kind regards,



Kirk Alan Pessner
Paralegal/Administrator
Political Reports Unit

KAP/tcm/32

Carla Wardlow

Date _____



California Fair Political Practices Commission

July 13, 1988

Kirk Alan Pessner
Nielsen, Merksamer, Hodgson,
Parrinello & Mueller
650 California Street, Suite 2650
San Francisco, CA 94108

Re: 88-268-194

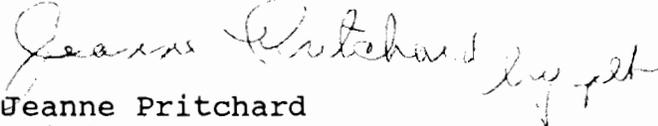
Dear Mr. Pessner:

Your letter requesting advice under the Political Reform Act was received on July 12, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh

LAW OFFICES OF
**NIELSEN, MERKSAMER,
HODGSON, PARRINELLO & MUELLER**

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

650 CALIFORNIA STREET, SUITE 2650

SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE (415) 989-6800

SACRAMENTO

770 L STREET, SUITE 800
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 446-6752

MAY 23 8 36 AM '88

FILE NUMBER

5226.01

May 18, 1988

Ms. Carla Wardlow
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Re: Disclosure Of "Arranged" Activity Expenses

Dear Carla:

In our recent telephone conversation, I described a hypothetical situation to you in which lobbyist A and lobbyist B, both from the same lobbying firm, have extended an invitation to public officials to attend an event at which an activity expense benefiting those public officials will be incurred. The invitation asks that the public officials contact an employee in the lobbying firm to RSVP and that employee is in charge of making necessary arrangements for the event. Neither the lobbyists nor the lobbying firm will incur or pay any of the costs of this event.

These activity expenses will be disclosed by both lobbyists on their Form 615 as being arranged but not paid by them. My question to you was whether the same activity expenses needed to be disclosed by the lobbying firm on its Form 625.

You confirmed that the lobbyists must report all activity expenses during the reporting period whether paid or incurred or arranged by them (Government Code section 86113(a)(1)). You then distinguished section 86113(a)(1) from Government Code section 86114(a)(5) which requires lobbying firms to only report activity expenses that it incurs and expects to pay.

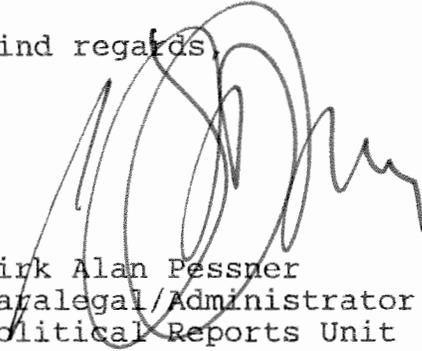
You advised me that an activity expense arranged by non-lobbyists in a lobbying firm did not need to be disclosed by the lobbying firm if the expense relating to the activity expense was not incurred or paid by the lobbying firm. You next clarified that this is what the 1988 Lobby Manual is suppose to mean when it requires lobbying firms to itemize "all activity expenses arranged, incurred or paid (except those activity expenses which

Ms. Carla Wardlow
May 18, 1988
Page 2

were paid, incurred or arranged by a lobbyist employed by the firm and which are itemized on the lobbyist's report)" (emphasis added), and you acknowledge that the word "arranged" should not have been included in this sentence (page 26).

If I have correctly stated the substance of our telephone conversation, kindly acknowledge this informal assistance by signing this letter and returning it to me.

Kind regards,



Kirk Alan Pessner
Paralegal/Administrator
Political Reports Unit

KAP/tcm/32

Carla Wardlow

Date _____



California Fair Political Practices Commission

May 25, 1988

Kirk Alan Pessner
Paralegal/Administrator
Political Reports Unit
Nielsen, Merksamer, Hodgson
Parinello & Mueller
650 California Street, Suite 2650
San Francisco, CA 94108

Re: 88-194

Dear Mr. Pessner:

Your letter requesting advice under the Political Reform Act was received on May 23, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard (cc)

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:ld