



California Fair Political Practices Commission

January 2, 1990

F.L. Shanbour
9268 Crocus Avenue
Fountain Valley, CA 92708

Re: Your Request for Informal
Assistance
Our File No. I-89-643

Dear Mr. Shanbour:

You have requested advice concerning the lobbying provisions of the Political Reform Act ("the Act").¹ Your letter does not indicate that you are seeking advice on behalf of a person who has duties under the Act. Accordingly, we consider your request to be one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).²

QUESTIONS

1) If a lobbyist is asked by a non-lobbying client to "work with the Department of Fish and Game" ("the Department") concerning a "wetland" site determination by the Department, and the determination is then considered by the Coastal Commission for rejection or adoption, are the lobbyist's actions considered "lobbying" under the Act?

2) Whether or not such activity is considered lobbying, is the lobbyist required to register the client as a lobbyist employer?

DISCUSSION

An individual engages in lobbying activity if the individual "communicates directly or through his or her agents with any elective state official, agency official or legislative official for the purpose of influencing legislative or administrative action." (Section 82039.) Administrative action is defined as

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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

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...the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding...
(Section 82002.)

Therefore, a lobbyist provides lobbying services when he or she represents a client in a quasi-legislative proceeding before an administrative agency. (Teitelbaum, Advice Letter, No. A-86-277, copy enclosed.)

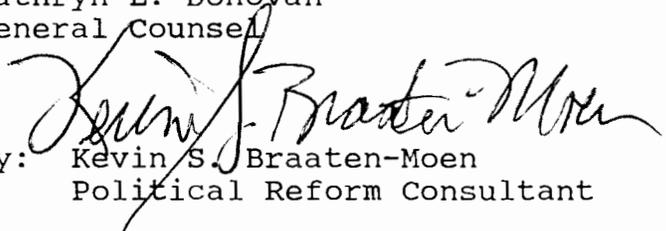
It is unclear from your letter whether the Department's actions could be considered "administrative action." However, if the Department's actions are for the purpose of making a recommendation to the Coastal Commission, it appears the lobbyist would not be attempting to influence administrative action unless the proceeding before the Coastal Commission involved administrative rulemaking under the Administrative Procedure Act (Sections 11340-11356, Gov. Code). (Section 82002; Regulation 18202, copy enclosed.)

A lobbying firm's registration statement must include information for each person with whom the lobbying firm contracts to provide lobbying services. (Section 86104.) The Act does not require a lobbying firm to include clients on whose behalf the firm does not lobby.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosures

November 7, 1989

FPPC
Nov 8 3 00 PM '89

Jeanne Pritchard
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 700
Sacramento, CA 95814

Dear Ms. Pritchard:

Would you please respond to the following questions:

Hypothetical: A registered lobbyist is asked by a non-lobbying client to work with the Department of Fish and Game on a "wetland" determination by that Department regarding a specific site. Fish and Game advises the Coastal Commission of its findings, and the Commission, acting in a quasi-judicial role may or may not adopt the Fish and Game recommendation.

Question 1: Is such contact with Fish and Game covered under the "lobbying" definition of Proposition 9?

Question 2: Is the lobbyist required to register the client as a lobbyist employer and his firm as a lobbyist on such a matter?

I would sincerely appreciate your prompt reply.

Cordially,



F.L. Shanbour
9268 Crocus Avenue
Fountain Valley, CA 92708

FLS:ph



California Fair Political Practices Commission

November 13, 1989

F. L. Shanbour
9268 Crocus Avenue
Fountain Valley, CA 92708

Re: Letter No. 89-643

Dear Mr. Shanbour:

Your letter requesting advice under the Political Reform Act was received on November 8, 1989 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