

February 15, 2012

Laura Adams
Simonelli & Associates
2971 Warren Lane
El Dorado Hills, CA 95762

Re: Your Request for Informal Assistance
Our File No. I-12-016

Dear Ms. Adams:

This letter responds to your request for advice regarding campaign provisions of the Political Reform Act (the "Act").¹

Because your inquiry is general in nature and does not involve a specific decision, we will treat your letter as a request for general information.²

QUESTION

Can the owner of a lobbying firm who is not a registered lobbyist, manage and direct the activities of a political action committee ("PAC") for its client?

CONCLUSION

Under the circumstances presented, Section 85702 does not prohibit an owner of a lobbying firm who is not a registered lobbyist to manage and direct the activities of a PAC for its client.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

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

FACTS

You work at Simonelli & Associates, a management and consulting firm. You wish to know if the owner of a lobbying firm who is not a registered lobbyist, can manage and direct the activities of a PAC for its client.

ANALYSIS

Section 85702, added to the act by Proposition 34, provides the following:

“An elected state officer or candidate for elected office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.”

Regulation 18752 provides that a lobbyist makes a contribution prohibited by Section 85702 when the contribution is made by a business entity owned in whole or part by a lobbyist and the lobbyist participates in the decision to make the contribution. (Regulation 18572(a)(2).)

In addition, Regulation 18752 provides that a lobbyist makes a contribution prohibited by Section 85702 when he or she, among other things, “delivers or transmits” a contribution to the prohibited candidate that is made from the lobbyist’s personal funds or assets. (Regulation 18752(a)(1).)

Your facts indicate that an owner of a lobbying firm who is not a registered lobbyist, wishes to “manage and direct” the activities of a PAC for its client. We assume that “manage and direct” includes making contribution decisions through the PAC.

The specific language in Section 85702 applies only to lobbyists. Because the owner is not a registered lobbyist, we have in the past concluded that such arrangements do not “run afoul of the lobbyist contribution prohibition of section 85702.” (*Blattner* Advice Letter, No. A-04-124; *Lecox* Advice Letter, No. A-06-196; See also *Churchwell* Advice Letter, No. I-01-115.) Furthermore, your facts do not indicate that the PAC’s funds are comprised, in part, of the personal funds or resources of lobbyists.

Therefore, under the circumstances presented, Section 85702 does not prohibit an owner of a lobbying firm who is not a registered lobbyist to manage and direct the activities of a PAC for its client.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Emelyn Rodriguez
Counsel, Legal Division

ER:jgl