



**FAIR POLITICAL PRACTICES COMMISSION**

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

September 1, 2015

Cruz Bustamante  
C/O James Harrison  
Remcho, Johansen & Purcell



**Re: Advisory Letter – Cruz Bustamante, FPPC No. 13/1210**

Dear Mr. Bustamante:

The Enforcement Division of the Fair Political Practices Commission investigated whether you violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to register as a lobbyist with the Secretary of State and file quarterly lobbying reports. The Enforcement Division has decided to close its file on this matter without initiating an enforcement action. The basis for this decision follows.

Under the Act, a lobbyist must register with the Secretary of State, complete a course on ethics, and file lobbyist reports four times per year disclosing his lobbying activities.<sup>2</sup> In order to qualify as a lobbyist, a person must receive compensation of \$2,000 or more in a calendar month to engage in direct communication with any elected state official, agency official, or legislative official (referred to collectively herein as “state officials”) for the purpose of influencing legislative or administrative action.<sup>3</sup>

The Enforcement Division’s investigation found that on numerous occasions in recent years you communicated with state officials for the purpose of influencing legislative or administrative action on behalf of clients. But it appears many of your communications took place in the company of a registered lobbyist paid by your client. This means those communications were not “direct communications” under the Act due to the so-called “ride along” exception in the Act’s regulations that excludes from the definition of “direct communications” communications made in the presence of a registered lobbyist.<sup>4</sup> Further, while your clients routinely paid you more than \$2,000 per month, some of this compensation was for activities other than communicating with officials and the Enforcement Division was

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

<sup>2</sup> Sections 86100, 86103, and 86113.

<sup>3</sup> Section 82039.

<sup>4</sup> Regulation 18239.

unable to determine what portion of the monthly payments you received were for communicating with officials compared to other activities.

Given the above, despite the fact that you contacted state officials for the purpose of influencing legislative or administrative action on behalf of your clients, the Enforcement Division did not find sufficient evidence to conclude that your actions qualified you as a lobbyist under the Act and we are closing this case with no further action.

Even though we are closing our file in this matter, be advised that direct communications with state officials may result in you qualifying as a lobbyist thereby requiring you to register and file lobbyist statements, amongst other requirements and prohibitions applicable to lobbyists under the Act. If you need guidance regarding the Act's lobbying provisions, please contact the Commission's Technical Assistance Division at 1-866-275-3772, or visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). If you have questions regarding this matter, please contact me at [REDACTED].

Sincerely,

[REDACTED]

Dave Bainbridge  
Senior Commission Counsel  
Enforcement Division