

David Pitman, Manager
Political Reform Division
Secretary of State's Office
111 Capitol Mall, Room 200

February 7, 1978

78-~~251~~

Technical Assistance and Analysis Division
Lobbyist Activity Authorizations

This memorandum is in response to your January 25, 1978, request for advice regarding 2 California Administrative Code Section 18619.

You have inquired about the statutory authority for the Commission staff's previous informal advice that a Lobbyist Activity Authorization (Form 61A) is required from every employer of each lobbyist except that an authorization is not required from an employer who is a sole proprietorship authorizing him or herself to be a lobbyist. Government Code Section 86101 states in part, "Each lobbyist shall register by filing...a written authorization to act as a lobbyist from each person by whom he is employed or with whom he contracts..." We interpret "person", in this section to mean any person other than the individual lobbyist who is also the sole proprietor/employer. In addition, we do not believe it would further the purposes of the Political Reform Act to require a Lobbyist Activity Authorization in that situation.

You have also requested advice regarding what your office should do to determine which lobbyist employers are sole proprietorships. We suggest that when the name of the lobbyist and the name of the lobbyist employer are identical or nearly identical it should be presumed that the lobbyist employer is a sole proprietorship. In that situation no Lobbyist Activity Authorization is required for the owner. In all other cases, it should be presumed that the lobbyist and the lobbyist employer are not the same individual and a lobbyist activity authorization should be required, unless your office determines otherwise. For example, if the name of the lobbyist is "John Q. Smith," and the name of the employer is "John Smith," it should be presumed the lobbyist and the employer are the same individual, because the names are nearly identical. However, if the name of the lobbyist is "John Q. Smith," and the name of the employer is "Smith and Associates," it should be presumed the lobbyist and the employer are not the same individual, and an Activity Authorization from Smith and Associates would be required.

If I can be of further assistance, do not hesitate to contact me.

Alan Herndon
Special Compliance Representative

Memorandum

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Copy to 18251
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To : Alan Herndon
Fair Political Practices Commission

Date: January 25, 1978



From : **Secretary of State** - DAVID B. PITMAN, Manager
Political Reform Division

Subject: Request for Advice Relative to 2 California Administrative Code Section 18619

Under 2 California Administrative Code Section 18619, "a firm, corporation, or other business entity" retained for the purpose of attempting to influence is a lobbyist employer (direct employer) as long as any of its members, employees, or agents qualify as lobbyists. In addition, the direct employer is required to execute a Lobbyist Activity Authorization (Form 61A) authorizing the lobbyist.

Our office has consistently maintained that all lobbyist employers must sign an authorization for each lobbyist. In several instances, this requirement has not been uniformly enforced due to confusion by our staff and the filers. The confusion has resulted from instances where the direct employer and the lobbyist are really one and the same (as in the case of a sole proprietorship). In such instances, we have not consistently required an authorization from the lobbyist employer to the lobbyist. For example, we have not required that Joe Gonsalves authorize Joe Gonsalves.

The informal opinion given by the Commission staff is that an authorization from a direct employer to the lobbyist is required in every case except where the direct employer is a sole proprietorship and the lobbyist is the sole proprietor.

After a search of the Political Reform Act, regulations, and opinions, I can find no authority for such an exemption of the authorization requirement for sole proprietorships. Furthermore, our office has no way of determining which direct employers are sole proprietorships and which are other "business entities."

The following examples are provided to illustrate the parameters of the problem:

<u>Lobbyist (Direct) Employer</u>	<u>Lobbyists</u>
Joe Gonsalves	Joe Gonsalves, Anthony Gonsalves
Patricia Gayman	Patricia Gayman, Betty Simms
Barrow and Associates	Ronald Barrow

Please provide written advice as to how we should administer Code Section 18619.