

Robert C. Summers, Chief  
Political Reform Audit Division  
Franchise Tax Board

June 2, 1978

A-78-293

Alan Herndon

Lobbyist and Lobbyist Employer Reporting

This memorandum is in response to your May 15, 1978, request for advice regarding the lobbying provisions of the Political Reform Act ("Act").

You have posed several specific questions regarding the applicability of the lobbyist disclosure and prohibition provisions of the Act to the following situation:

Two corporations, A and B, retain jointly a lobbyist. Corporation A maintains an office for the lobbyist and makes all of the payments to the lobbyist for salary and expenses. Corporation B then reimburses Corporation A for one half of the total payments made to the lobbyist and for maintenance of the office.

In response to your specific questions, it is the staff's view that Corporation A is not a "firm, corporation or other business entity which is retained for the purpose of influencing or attempting to influence legislative or administrative action" as described in the Commission's regulation defining lobbyist employers, 2 Cal. Adm. Code Section 18619.

Therefore, the prohibitions on gifts and contributions contained in Government Code Sections 86202 and 86203 will not be applicable to the assets of Corporation A unless the lobbyist is an owner of 10% or more of the common stock of the corporation or a shareholder of any amount, if Corporation A is a professional corporation. This determination is based on the fact that, according to your memorandum, the lobbyist simultaneously performs services for both Corporations A and B. Normally, the lobbyist member, partner, employee or agent of a firm, corporation or other business entity retained for the purpose of attempting to influence legislative or administrative action, represents the interests of the firm's client and not the firm itself.

Memo to Robert C. Summers

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The prohibitions on gifts and contributions will be applicable to the assets of Corporation B in the same manner as described above for Corporation A.

Corporations A and B are the lobbyist employers for the lobbyist and each should continue to report one-half of the total payments on their individual lobbyist employer reports. The lobbyist should also continue to report receiving one-half of his salary and expenses from each corporation.

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

Alan Herndon  
Compliance Representative

AH:bw

78293

# Memorandum

To : Opinion Request Meeting Participants

Date : May 26, 1978

From : FAIR POLITICAL PRACTICES COMMISSION  
Alan Herndon

Subject: Lobbyist Employers

With respect to the attached memorandum from Robert Summers, the key issue raised is: Does corporation "A" represent a firm, corporation or other business entity retained for the purpose of influencing legislative or administrative action as described in Regulation 18619? If so, then the two corporations and the lobbyist are filing incorrectly and corporation "A" is subject to the prohibitions on gifts and contributions pursuant to 18619(f). If not, then the two corporations and the lobbyist are filing correctly.

## RESOLUTION

CORPORATION "A" IS NOT A FIRM RETAINED FOR THE PURPOSE OF INFLUENCING. ADVISE LETTER SENT TO BOB SUMMERS ON 6/2/78.

A. Herndon  
6/2/78

# Memorandum

To : Michael Bennett, Executive Director  
Fair Political Practices Commission

Date : May 15, 1978

File No.:

From : Robert C. Summers

Subject: Request for Advice

Recently the following factual situation appeared during an audit, for which we request the advice of your staff.

Corporation A, a southern California based nonprofit corporation, maintains a governmental affairs office for their employee lobbyist. Corporation B, a northern California based nonprofit corporation, operates in an almost identical fashion to that of Corporation A. Due to the similarity of operations, A's lobbyist performs his service simultaneously for both A and B. Neither corporation is restricted from participating in political activities, including the making of contributions, by reason of their tax-exempt status.

Presently A pays the salary of the lobbyist and his staff, overhead for the Sacramento Office, and all travel and related expenses. In turn, A bills B for one half of these expenses. B makes payment directly to A. This procedure has been in effect for approximately six years and began as an oral agreement between the two corporate presidents.

Both A and B file as lobbyist employers, each listing payments made to the lobbyist. The lobbyist reports as if he receives one half his salary and expense reimbursement from each corporation.

Based on the above set of facts:

1. Does the prohibition detailed in Regulation §18619 apply to Corporation A?
2. Does it apply to Corporation B?
3. How should the lobbyist report?
4. How should Corporation A report?
5. How should Corporation B report?

Your timely reply would be appreciated as there is an audit case pending.



Chief  
Political Reform Audit Division

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DATE <u>5-19-78</u>
TIME <u>9:10</u>

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