

State of California

A-81-191



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement •• Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

September 11, 1981

Eileen Padberg
Nelson-Padberg Consulting
18071 Fitch
Irvine, CA 92714

Dear Eileen:

This is in response to your letter of August 17, 1981, in which you asked whether you should be registered as a lobbyist. You presented the following information:

- (1) Your contract with Orange County Employees Association (OCEA) indicates that "lobbying activities" when necessary are a part of your duties as a consultant to that organization.
- (2) Your retainer fee from OCEA is \$1200 a month with approximately 10% being allocated by you for lobbying purposes.
- (3) Most of your activities as a legislative advocate for OCEA involve bill analyses and suggested positions on these bills and occasionally writing a letter to a legislator.

Government Code Section 82039 defines a lobbyist as "... any person who is employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly or through his agents with any state official, agency official or legislative official for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which he received consideration is for the purpose of influencing legislative or administrative action." (emphasis added).

A lobbyist is a person who is compensated for the purpose of attempting to influence legislative or administrative action, and who engages in such activity on a substantial or regular basis. 2 California Administrative Code Section 18239 further defines substantial or regular as meeting one of the tests contained in Section (e).

Eileen Padberg
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You do not appear to qualify as a lobbyist pursuant to the "Compensation Test" as your wages allocable to lobbying activity are less than \$1000 in a 30-day period. Based on your calculations of approximate time spent as a legislative advocate for OCEA, you do not appear at this time to meet the "Time Test". You may therefore terminate your registration as a lobbyist.

In response to your question of how your being a registered lobbyist affects the partnership Nelson-Padberg Consultants, 2 California Administrative Code Section 18619(h) states: "If a lobbyist is a partner (other than a limited partner) in a business entity, a shareholder in a professional corporation, holds 10 percent or more of the common stock of a corporation, or is a member, partner, employee or agent of a retained entity which is an employer of lobbyists pursuant to subsection (c) of this regulation, the prohibitions set forth in Government Code Sections 86202, 86203 and 86205 are applicable with respect to the assets of the business entity, corporation or retained entity. Nothing in this regulation imposes any prohibition on the personal funds of a partner, shareholder, member, agent or employee who is not a lobbyist".

Since you are a registered lobbyist and a partner, the limitation set forth in Government Code Section 86203 would apply to the firm Nelson-Padberg. Accordingly, a member, partner, employee or agent of Nelson-Padberg cannot exceed the \$10 gift limitation set forth in Government Code Section 86203 when purchasing a gift for a state official from a retainer received from a client for the purpose of influencing legislative or administrative action.

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

Yours Very Truly,



Lynn Montgomery
Political Reform Consultant

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NELSON-PADBERG CONSULTING

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August 17, 1981

Ms. Lynn Montgomery
%Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95814

Dear Lynn:

Attached is a copy of the letter to Secretary of State's office regarding the question of whether to remain registered or not.

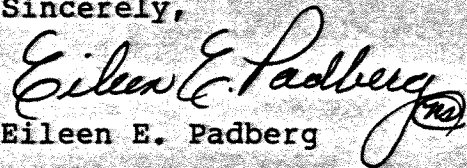
Several things to keep in mind as we are grappling with the question:

1. Protection in case I do have to contact a legislator with regard to influencing legislation;
2. My "contract" with OCEA clearly indicates that as part of my duties whether I do it or not;
3. Also, how does being a registered lobbyist affect my partnership with Nelson-Padberg Consulting which manages political campaigns.
4. The monthly OCEA retainer fee has been increased to \$1,200 per month. In most recent reports, I reported 10% to lobbying;
5. Must overhead be reported on OCEA #650 and Nelson-Padberg Consulting #650?

It seems the more I think about it that perhaps remaining registered does make sense. I'd appreciate your thoughts on this.

I enjoyed the Advisory Committee meeting and the opportunity to talk with you and Jay at lunch.

Sincerely,


Eileen E. Padberg

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Enclosure

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NELSON-PADBERG CONSULTING

June 11, 1981

Secretary of State
Political Reform Division
P.O. Box 1467
Sacramento, California 95807

Dear Reader:

Enclosed are late reports on the following:

Orange County Employees Association
Robert Nelson & Associates
Eileen E. Padberg

Having not been registered for awhile, somehow, the reporting dates got mixed up, either my error or our Secretary's error when we called the Secretary of State's Office for information.

I also file reports for Orange County Employees V.O.T.E.R.R. PAC, which report I did file on time, but somehow the enclosed did not get filed.

As you will note there has been no activity. Also, salary, fee schedule is a little confusing. Actually OCEA pays to Robert Nelson & Associates (now Nelson-Padberg Consulting) a monthly fee of \$1,000 per month. I have assumed that a part of my salary at Robert Nelson & Associates should be applied to Lobbying, so I have arbitrarily used 1/4 of monthly salary.

Actually the OCEA retainer fee is a legislative analysis of the daily bills for their monthly meetings. I then suggest positions on these bills that affect OCEA members, then a letter is written to the Committee or Legislator. Should I remain registered as a Lobbyist? Does this meet the criteria established?

Sincerely,

Eileen E. Padberg