



California Fair Political Practices Commission

January 28, 1986

Frederick J. Lowell
Pillsbury, Madison & Sutro
P.O. Box 7880
San Francisco, CA 94120

Re: Your Request for Advice
Our File No. A-86-032

Dear Mr. Lowell:

You have requested advice on behalf of your law firm, Pillsbury, Madison & Sutro regarding filing obligations of the firm and its employees under the new lobbyist registration and disclosure provisions of the Political Reform Act (the "Act").^{1/} This letter will confirm the oral advice rendered to you at our meeting last Friday.

Under the recent amendments, your firm, which had filed as a "\$2,500 filer" in the past, will now file as a "lobbying firm," as defined by Section 82038.5. In the past, you had received advice to the effect that full-time "employees" of your firm (including partners) need not register as lobbyists as long as their lobbying activities were only incidental to their primary activities as attorneys. 2 Cal. Adm. Code Section 18239. However, a recent review of your firm's filings for 1985 indicates that some of the firm's "employees" have been paid substantial sums by the firm for lobbying activities, even though their primary activities continued to be attorney services. These sums indicate that lobbying activities may be a "substantial or regular" part of their employment with the firm. Section 82039.

Under the new statute it is our interpretation that the "full-time employee" exception found in 2 Cal. Adm. Code

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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Section 18239(b) applies only to those situations where a full-time employee is lobbying on behalf of his or her employer. The exception does not apply when the full-time employee lobbies on behalf of a client of his or her employer, where the employer is now a "lobbying firm."

Consequently, it is our current advice that, under the new statutory provisions, employees (including partners) of your firm should register as lobbyists when they have received or have become entitled to receive \$2,000 or more in compensation in any calendar month for influencing legislative or administrative action, so long as any direct communication is involved. Section 82039; 2 Cal. Adm. Code Section 18239. Your firm is able to determine this from its computerized time records at the end of each month. You have agreed with our current interpretation and your firm will file in accordance with that interpretation. However, your firm need not amend its past filings and its employees need not retroactively file as lobbyists based upon our current advice under the new statute.

The staff has agreed that, in light of the new statute, clarifying amendments to regulation 2 Cal. Adm. Code Section 18239 are in order and we will notice the regulation for amendment in the near future.

I trust that this letter has adequately memorialized our discussion of last Friday. Should you have further questions, I may be reached at (916) 322-5901.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

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