



California Fair Political Practices Commission

March 26, 1986

R. E. Sanford
R. E. Sanford & Associates
9100 Billy Mitchell Boulevard
Roseville, CA 95678

Re: FPPC Advice No. A-86-052

Dear Mr. Sanford:

This is in response to your letter dated January 7, 1986, which was received by this office on February 10, 1986, and to confirm my subsequent telephone advice regarding the lobbying disclosure provisions of the Political Reform Act (Government Code Sections 81000-91015).

As we discussed, the lobbying disclosure provisions of the Act apply only to the actions of the California State Legislature and California state agencies, and to the action of the Governor in approving or vetoing legislation. They do not apply to the actions of any local or federal legislative bodies or to local or federal officials. Therefore, for purposes of registration and disclosure, you are only required to report activities in connection with influencing or attempting to influence legislative or administrative actions at the state level.

With respect to question 3 on the last page of your letter, please note that certain activities, which are not "quasi-legislative administrative actions," such as applying for a license or permit, even if the license or permit is to be granted by a state agency, are not reportable as lobbying activities. Enclosed is a copy of FPPC regulation 2 Cal. Adm. Code Section 18202 which identifies the types of activities which are not "quasi-legislative administrative actions" and, therefore, are not reportable.

Finally, I have noted that, pursuant to our telephone conversation, you have amended your Lobbying Firm Registration Statement to clarify that Dick Chappell and Clayton McCullough, rather than the Deer Park Ranch Group, are your employers. Please be advised that Messrs. Chappell and McCullough must each file quarterly Reports of Lobbyist Employer (Form 635) and should list themselves, not the Deer Park Ranch Group, as the lobbyist employer. If desired, the name of the group may be included on the form in parentheses after the employer's name.

I hope this information has been helpful in clarifying your reporting obligations under the Political Reform Act. Please call me at (916) 322-5662 if I can be of further assistance.

Sincerely,

Carla Wardlow

Carla Wardlow
Political Reform Consultant

CW:cah

Enclosure

F P P C

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SPECIALISTS IN RECREATIONAL:
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DATE: 7 January 1986

Jeanne Pritchard
Chief, Technical Assistance Division.
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Last week I telephoned your office for some information pertaining to Lobbyist Reports and spoke to someone named Colleen. She was quite helpful in providing me with certain information and followed up that conversation by sending me a copy of a recent letter from you to the California Farm Bureau Federation (FPPC No. A-85-265). My current dilemma and the reason for this letter is that the information that I was given by telephone is not consistent with the information in the letter.

First, let me state the nature of my business. As you can see from the letterhead, lobbying is only a small portion of my business and most of my time is spent in work of a consulting nature. By way of elaboration, I manage a statewide association of motorcyclists and act as both the President and Legislative Advocate for that association. In those capacities I perform all of those functions normally associated with an 'organization lobbyist' both at the federal, state, and local levels of government. In addition, I answer letters from members with specific answers to legislative matters and publish a newsletter to the membership advising of legislation and regulatory activities (federal, state, local, etc., levels) that are of interest to the membership, even attempting to influence those members and others to 'voice their opinions' on such matters.

In another capacity, I am acting as a liaison (consultant) between:

- (1) a large user-group of off-road vehicle enthusiasts (some of whom also belong to the motorcycle association) that are basically located in Stanislaus County,
- (2) the owners of some property that this user-group would like to see added to an existing off-road vehicle facility located in Stanislaus County,
- (3) the County (government) of Stanislaus including the Board of Supervisors and the Director of Parks,
- (4) the Off-Highway Motor Vehicle Recreation (OHMVR) Division within the California Department of Parks and Recreation,

(5) the OHMVR Commission,

(6) a firm known as EDAW, Inc., that has performed the Feasibility Study and is now performing the Environmental Impact Study for the County of Stanislaus,

(7) and anyone else who expresses an opinion on this project.

Because I have never been quite sure which of the activities listed in the above paragraphs constitute 'lobbying' under the FPPC definition, I have always reported all of my income on the various lobbyist and lobbyist employer reports. In my telephone conversation with Colleen, I was informed that I should only include that portion of my income that resulted directly from lobbying. It was at this point that we got into specifics about what constitutes 'lobbying' and her definition was as follows:

1. Lobbying includes oral or written contact with only the State Legislature, the State Legislative Staff, and the State Administrative Agencies such as the California Department of Parks and Recreation and its employees.
2. Conversely, lobbying does not include contact with local governments (such as County Administrative Agencies, County Boards of Supervisors, City Administrative Agencies, City Councils, District Officials, etc.) or federal land-use agencies (such as the US Bureau of Land Management, the US Forest Service, etc.).
3. Likewise, lobbying does not include time spent in attempting to influence others (association members, user groups, etc.) to contact their various governmental representatives for the purpose of expressing their individual or group desires.

Based upon the foregoing interpretation provided by Colleen, I changed my record keeping system and the Fourth Quarter 1985 lobbying reports to reflect only that portion that she had described as constituting 'lobbying'.

Then, I received from Colleen a copy of the letter sent by you to the California Farm Bureau Federation and an excerpt from Section 18239 of the Regulations of the Fair Political Practices Commission Title 2, Division 6 of the California Administrative Code. The excerpt from the Administrative Code states in part:

- "(5) "Qualifying Official" means:
- (A) Any elected official,
 - (B) Any legislative official,
 - (C) Any appointed, elected or statutory member or director of any state agency.
 - (D) Any staff member of any state agency who makes direct recommendations to the persons listed in subsection (5) (C) of this

subsection, or who has decision making authority concerning such recommendations."

The excerpt from the Administrative Code does not specify 'State' under subsections (5)(A) and (5)(B) as it does under (5)(C) and (5)(D). So, again I am in a quandry: Am I lobbying when I am attempting to influence any elected official (member of a Board of Supervisors, a member of a City Council, or a District Director) or a member of their staff who is employed in a legislative capacity?

Your response to the California Farm Bureau Federation states in part:

"This very broad definition of the types of payments which must be reported as compensation by a lobbyist includes compensation received in connection with the activities described in items (1) through (5) of your letter:

- (1) Conversations with Farm Bureau members on any legislative or regulatory activity is reportable as lobbying time, even if the bill or activity is, or may be, of no interest to us, or the conversation is for information only.
- (2) Any reading of newsletters, mail or other information which discusses legislative or administrative activity must be logged as lobby time even though no legislation or regulatory activity was being promoted or influenced.
- (3) The reading of a legislative bill or regulatory proposal must be logged as lobby time even if the lobbyist concludes, after reading the bill or proposal, that Farm Bureau has no interest in it.
- (4) The time spent travelling to and from a legislative hearing, a meeting with state agency personnel, or Farm Bureau members (if the purpose was to discuss legislation or regulations) must be logged as lobby time.
- (5) Research on legislation or a regulatory proposal must be logged as lobby time even if the result of that research is that we take no position on the proposal."

While I would appreciate your opinion, I am going to have to presume that the information given to me by Colleen was partially in error at least with respect to 'elected officials and legislative staff' in other than State government. Following that line of reasoning, I am drawing the following conclusions:

1. All of the work that I do for the statewide motorcycle association, other than working with membership records and related bookkeeping, is to be considered as 'lobbying' regardless of the level of government (as long as the governmental person being contacted is elected or employed in a legislative capacity).

2. In my capacity as liaison (consultant) for the Stanislaus County project, all work performed other than routine office work (typing, reproduction, mail handling, bookkeeping, filing of FPPC reports, etc.) and contact with non-elected/non-legislative employees of local governments, should be reported as 'lobbying'. By way of clarification of this last point, contact with the Stanislaus County Board of Supervisors is considered 'lobbying' while contact with the Stanislaus County Parks Director is not considered 'lobbying'.

3. And, even though this last question may appear frivolous, it is being posed only to help me firmly establish in my mind those actions that the FPPC might consider lobbying. Upon occasion, groups of people (sometimes an organization) 'rent' a portion of my ranch for the purpose of having a picnic or recreational outing. If, as a condition of such rental, it was stipulated that I was to contact the Chief of the local Fire District, who is an 'elected official', and obtain an out-of-season fire-permit for an open barbecue, would that contact be considered 'lobbying' and would it be necessary for me to register as a lobbyist for that group or organization and file the required reports? Believe me, this is not intended to be frivolous! The situation has occurred.

I will sincerely appreciate receiving your opinion of my understanding, as stated above, with detailed clarification of any possible misunderstanding. Further, I would appreciate a quick response as it will be necessary for me to revise my record keeping system again based upon the new information. A long delay might jeopardize the ability to retrieve such information for subsequent FPPC lobbying reports.

Respectfully,


Russ Sanford