



California Fair Political Practices Commission

July 27, 1989

Dina Huniu, Account Executive
Stoorza, Ziegus & Metzger, Inc.
801 Twelfth St., Ste. 250
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-89-397

Dear Ms. Huniu:

You have requested advice concerning the lobbying disclosure provisions of the Political Reform Act.¹

QUESTIONS

1. Has Stoorza, Ziegus & Metzger, Inc. qualified as a lobbying entity with reporting obligations under the lobbying disclosure provisions of the Act?

2. Do the organizations which contract with Stoorza, Ziegus & Metzger, Inc. have any reporting obligations under the lobbying disclosure provisions?

CONCLUSIONS

1. Under the circumstances presented in your letter, it does not appear that the corporation has qualified as a lobbying firm or lobbyist employer as defined in the Act. However, please carefully review the following analysis to determine if the corporation has incurred any filing obligations under the Act's other lobbying disclosure provisions.

2. You have not provided any facts with regard to the activities of the organizations which contract with the

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 81000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

corporation. Therefore, I am unable to provide a specific answer to this question. However, I hope the general discussion which follows will be helpful.

FACTS

Stoorza, Ziegus & Metzger, Inc. provides public relations, marketing communications and governmental affairs services. The corporation currently has been hired to work on a grassroots organizing project funded by several political organizations and lobbying firms. The corporation does not engage in direct communication with public officials in connection with the project.

ANALYSIS

The Act's lobbying provisions require several types of individuals and entities to register and file periodic reports disclosing payments in connection with influencing or attempting to influence legislative or administrative action. (Sections 86100-86118.) These include:

Lobbyists

A "lobbyist" is an individual who receives compensation to communicate directly with elective state officials, legislative or agency officials on a substantial or regular basis for the purpose of influencing legislative or administrative action. (Section 82039.) The thresholds for determining when an individual has met the "substantial or regular" test are contained in Regulation 18239 and are described in detail in the enclosed 1989 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act."²

However, an individual must have direct communication with elective state officials, legislative or agency officials for the purpose of influencing legislative or administrative action before he or she would qualify as a "lobbyist." "Direct communication" means:

...appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquiries from, any qualifying official, either personally or through an agent who acts under one's direct supervision, control or direction....

Regulation 18239(d)(3).

² Please refer to the "Information Manual" for definitions of "agency official," "legislative official," "administrative action," "legislative action," and "influencing legislative or administrative action."

Lobbying Firms

A "lobbying firm" is an entity which contracts to provide lobbying services to others. To qualify as a lobbying firm: 1) a partner, owner, member, officer or employee of the entity must qualify as a "lobbyist;" or 2) the firm must receive \$5,000 in a calendar quarter for the purpose of influencing legislative or administrative action and a partner, owner, officer or employee of the entity must engage in "direct communication." An individual lobbyist who contracts to provide lobbying services to others is also defined as a "lobbying firm." (Section 82038.5, Regulation 18238.5.)

Again, direct communication is a key element in determining whether an entity qualifies as a "lobbying firm" and must file lobbying disclosure reports.

Lobbyist Employers

A "lobbyist employer" is any individual or entity (other than a lobbying firm) which either 1) directly employs an individual who qualifies as a "lobbyist;" or 2) contracts with an individual or entity that qualifies as a "lobbying firm" for the purpose of influencing legislative or administrative action. (Section 82039.5.)

Lobbying Coalitions

A "lobbying coalition" is a group of ten or more individuals or entities which pool their funds for the purpose of employing a "lobbyist" or contracting for the services of a "lobbying firm" for the purpose of influencing legislative or administrative action. (Section 18616.4.)

Persons Who Spend \$5,000 In A Calendar Quarter ("\$5,000 Filer")

A "\$5,000 filer" is an individual or entity that does not employ a "lobbyist" or a "lobbying firm" but spends \$5,000 in a calendar quarter for the purpose of influencing legislative or administrative action. The following types of payments would be counted toward determining whether an individual or entity qualifies as a "\$5,000 filer:"

1. Payments for the services, time or expenses of an employee who does not qualify as a "lobbyist" but who engages in "direct communication" with elective state, legislative or agency officials;
2. Payments for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official or agency official.

3. Payments which directly or indirectly benefit elective state officials, legislative officials, agency officials or members of their immediate families. These payments need only be counted toward the \$5,000 threshold if the individual or entity also makes payments of the type outlined in paragraphs 1 and 2. (Sections 86115, 82045.)

As long as the owners, officers or employees of Stoorza, Ziegus & Metzger, Inc. do not engage in direct communication with elective state officials, legislative officials or agency officials for the purpose of influencing legislative or administrative action on behalf of the corporation, and the corporation does not contract for the services of a lobbying firm for the purpose of influencing legislative or administrative action on behalf of the corporation, the corporation would not qualify as a lobbyist employer. As long as the corporation does not contract to engage in direct communication on behalf of others, the corporation would not qualify as a lobbying firm. However, as outlined above, other activities could result in the corporation incurring lobbying disclosure obligations.

In addition, to the extent that any clients of the corporation engage in the activities outlined above, they should contact the Commission to determine their filing obligations.

I hope this satisfactorily responds to your questions. Please do not hesitate to contact me at (916) 322-5662 if you need further assistance.

Sincerely,

Kathryn E. Donovan
General Counsel

Carla J. Wardlow

By: Carla J. Wardlow
Assistant Chief, Technical
Assistance & Analysis Division

Enclosure



June 27, 1989

PPFC
JUL 3 1989
RECEIVED

Ms. Carla Wardlow
Fair Political Practices Committee
P.O. Box 807
Sacramento, CA 95816

Dear Carla:

Thank you for taking the time to meet with me this morning regarding lobbying requirements. You were very helpful to all of us!

For our recordkeeping purposes, I am submitting the issues we discussed today and requesting a written response for our files:

1. SZM is a public relations firm with NO direct contact with legislators and staff. The project in question is a PR/grassroots organizing project funded by several political organizations and lobbying firms. Does SZM in any way qualify as a lobbying entity?
2. Does SZM has any filing requirements, including those of an individual or lobbyist?
3. Do the organizations under contract with SZM have filing requirements? If so, what are they?

Carla, I appreciate your assistance on this matter. Please feel free to contact me at 446-6667 if I may provide clarification on any of the above information.

Sincerely,

Dina Huniu
Account Executive

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Public Relations/Marketing Communications/Governmental Affairs
801 Twelfth Street, Suite 250
Sacramento, California 95814
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