

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

April 23, 1996

Mrs. Joanne Cox
Vice President
Financial Operations
American Frozen Food Institute
2000 Corporate Ridge, Suite 1000
McLean, VA 22102

Re: Your Request for Informal
Assistance
Our File No. I-96-117

Dear Mrs. Cox:

This is in response to your letter requesting advice regarding the lobbying disclosure provisions of the Political Reform Act (the "Act").¹ Because your inquiry is general in nature, we will treat your letter as a request for informal assistance.²

QUESTION

Must the American Frozen Food Institute ("AFFI") file a Report of Lobbyist Employer (Form 635)?

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 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c)(3).)

CONCLUSION

No. AFFI has no obligation to file Form 635.

FACTS

AFFI is a federally tax-exempt organization under Section 501(c)6 of the Internal Revenue Service Code. It operates a federal political action committee called AFFI-PAC. It does not have a California political action committee and does not employ a lobbyist in California. On January 1, 1996, AFFI made a \$1,000 payment out of its general operating fund to the California League of Food Processors ("CLFP") to aid in funding the CLFP's legislative reception.

ANALYSIS

Section 86115 provides that:

Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86116:

- (a) Any lobbyist employer; and
- (b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter, unless all of the payments are of the type described in subdivision (c) of Section 82045.

The obligation to file Form 635 is imposed on lobbyist employers and lobbying coalitions. Section 82039.5 states:

"Lobbyist Employer" means any person, other than a lobbying firm, who:

- (a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or
- (b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

Regulation 18616.4 provides:

- (a) Definition of Lobbying Coalition. A lobbying coalition is a group of ten or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for the purpose of sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm. A bona fide federation, confederation or trade,

labor or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action....

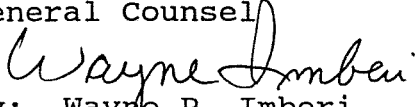
AFFI does not fall within the definition of either lobbyist employer or lobbying coalition and therefore has no obligation to file Form 635.

However, if AFFI were to become a lobbyist employer, as defined in Section 82039.5, payments made to a third party to cosponsor a legislative reception would be reportable on Form 635, Part III, Section D as "Other Payments to Influence".

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Steven G. Churchwell
General Counsel


By: Wayne P. Imberi
Political Reform Consultant