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FAIR POLITICAL PRACTICES COMMISSION

June 13, 1997

Shelly McKinley-Olson  
J. Richard Eichman, CPA  
1127 11<sup>th</sup> Street, Suite 300  
Sacramento, California 95814

**Re: Your Request for Advice  
Our File No. I-97-250**

Dear Ms. McKinley-Olson:

This letter is a response to your request for advice regarding the lobbying provisions of the Political Reform Act (the "Act").<sup>1</sup> Since your advice request does not provide specific information, we are treating your request as one for informal assistance.<sup>2</sup>

**QUESTION**

Must an organization which retained a lobbying firm during the 1995-1996 legislative session continue to file lobbyist employer statements during the 1997-1998 session to reflect payments made for work performed during the 1995-1996 session, even though the firm currently is not lobbying for the organization?

**CONCLUSION**

Yes. Once an entity incurs a filing obligation, as a lobbyist employer, it must continue to file statements to reflect payments which gave rise to the filing obligation until those payments cease, even if the lobbyist employer would otherwise have no filing obligation.

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<sup>1</sup> Government Code Sections 81000-91014. Commission regulations appear at title 2, sections 18109-18995, of the California Code of Regulations.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329, subd. (C)(3).)

## FACTS

You are writing on behalf of a client which retained a lobbying firm during the 1995-1996 legislative session for a set fee. The client was not able to pay the full fee by the end of 1996 and has not authorized any lobbying firm for the 1997-1998 session. The client is continuing to pay the lobbying firm authorized to lobby on its behalf during the 1995-1996 session.

## ANALYSIS

The Act requires lobbyist employers and lobbying firms to disclose payments for lobbying services. (Sections 86116 and 86114). Regulation 18616 clarifies disclosure requirements of lobbyist employers and states:

“...(b) Payments to Lobbying Firms. Lobbyist Employers shall disclose on their periodic reports the total amount of payments, including reimbursement for expenses, made to each lobbying firm during the period, and the name and address of the lobbying firm which received the payments. **The lobbyist employer shall indicate on the report if the payment was made for services provided in a previous calendar year...**”

(Emphasis added.)

Regulation 18613 clarifies disclosure requirements of lobbying firms and states:

“ (a) Reporting Payments Received.

The periodic reports filed by a lobbying firm shall show all payments received in connection with lobbying activity during the period. To the extent that payments received by a lobbying firm are only partially in connection with lobbying activities, the lobbying firm shall report only that portion which was received for lobbying activities. When reporting payments received, the lobbying firm shall disclose:

- (1) The full name, address and telephone number of the person or entity making the payment;
- (2) The date the payment was received;
- (3) The amount of the payment;
- (4) **If the payment was received after the calendar quarter in which the services were provided, the calendar quarter in which the services were provided.**”

(Emphasis added.)

The Act clearly indicates that a lobbyist employer must report payments made for services rendered in a previous calendar quarter and makes no provision for an exception if the lobbyist employer does not qualify as a lobbyist employer in the quarter in which the payment is made. If there were such an exception, an employer could contract with a lobbying firm, make no

payments during the period the firm was authorized to lobby, terminate the contract and then start making payments but have no obligation to report those payments because it was not lobbying.

In addition, it is not sufficient that the payments are reported by the lobbying firm. The law requires that both the lobbying firm and the lobbyist employer report the payments.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel

By: Wayne Imberi  
Political Reform Consultant