



FAIR POLITICAL PRACTICES COMMISSION

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July 13, 1998

Howard Owens
Executive Director
Consumer Federation of California
1228 N Street, Suite 29
Sacramento, California 95814

**Re: Your Request for Advice
Our File No. A-98-149**

Dear Mr. Owens:

This letter is in response to your request for advice on behalf of Hoyt Minkoff, the Consumer Federation of California, and the McGeorge School of Law regarding the provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. Is Hoyt Minkoff a lobbyist under the Act?
2. Is the Consumer Federation of California a lobbyist employer under the Act as a result of its relationship with Mr. Minkoff?
3. Does McGeorge School of Law, as the administrator of a federal work-study program, become a lobbyist employer?

CONCLUSIONS

1. If Mr. Minkoff spends one third or more of the time, in any calendar month, for which he receives compensation from the Consumer Federation of California, engaging in direct communication, other than administrative testimony, with one or more qualifying officials for

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

the purpose of influencing legislative or administrative action, he is a lobbyist. See Analysis below.

2. If Mr. Minkoff is a lobbyist as discussed in question #1, then the Consumer Federation of California is a lobbyist employer.

3. No. McGeorge School of Law does not become a lobbyist employer.

FACTS

The Consumer Federation of California ("CFC") has hired Hoyt Minkoff, a law student from the McGeorge School of Law ("McGeorge"), to lobby on behalf of the CFC. The financial arrangement of this work-study position is that the CFC will pay forty percent of the student's \$9.00 hourly wage, while the rest will be paid by the federal government through the federal work-study program, which is administered through McGeorge. Mr. Minkoff does not influence legislative or administrative action on behalf of McGeorge.

Mr. Minkoff will work approximately thirty hours per week for the CFC. Mr. Minkoff will not lobby on the behalf of any other person. Mr. Minkoff will spend approximately 30 percent of his time communicating directly with public officials and their staff.

ANALYSIS

Introduction

Based on these facts, we find that for purposes of Chapter 6 of the Act, the CFC and McGeorge are Mr. Minkoff's employers. However, we must determine whether either is a "lobbyist employer" as defined in Section 82039.5. Before we can answer that question, we must ask whether Mr. Minkoff is a "lobbyist."

The Lobbyist Definition

Regulation 18239 provides the definition of a lobbyist:

"(a) Introduction.

(1) If an individual engages in direct communication, other than administrative testimony, with a qualifying official for the purpose of influencing legislative or administrative action on behalf of any person other than his or her employer, apply Government Code Section 82039 and subdivision (b) of this regulation to determine if the individual is a lobbyist.

(2) If an individual engages in direct communication, other than

administrative testimony, with a qualifying official for the purpose of influencing legislative or administrative action *only* on behalf of his or her employer, apply Government Code Section 82039 and subdivision (c) of this regulation to determine if the individual is a lobbyist.

(b) A lobbyist is an individual who receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.

(c) A lobbyist is an individual who spends one-third or more of the time, in any calendar month, for which he or she receives compensation from his or her employer, engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.”

Regulation 18239 states that if an individual lobbies *only* on the behalf of his employer (here there are two), that individual is a lobbyist if:

“[The] individual spends one-third or more of the time, in any calendar month, for which he or she receives compensation from his or her employer, engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.”
(Regulation 18239(c).)

Mr. Minkoff must determine whether he is a lobbyist under the Act by determining if he spends one-third or more of his time in any calendar month performing the requisite activities.² The Commission does not have this information. (See *In re Oglesby* (1975) 1 FPPC Ops. 71.)

CFC is a Lobbyist Employer but McGeorge is Not

Section 82039.5 defines a lobbyist employer, in relevant part, as any person, other than a lobbying firm, who:

² Please see Regulation 18239(d) (copy enclosed) for the definitions of “direct communication,” “administrative testimony,” “influencing legislative or administrative action,” and “qualifying official.”

“(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”

If Mr. Minkoff qualifies as a lobbyist under Regulation 18329(c) as discussed earlier, CFC is a lobbyist employer. We reach this conclusion because CFC is providing compensation to Mr. Minkoff, directing his daily activities, and compensating Mr. Minkoff “for the purpose of influencing legislative or administrative action.”

On the other hand, McGeorge does not employ Mr. Minkoff “for the purpose of influencing legislative or administrative action,” thus, it is not a lobbyist employer under these facts. Rather, McGeorge employs Mr. Minkoff to further Mr. Minkoff’s educational and professional goals through a worthwhile federal program.

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Marte Castaños
Staff Counsel, Legal Division

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