



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
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November 1, 2019

Patrick Brennan  
Schnitzer Steel Industries  
1101 Embarcadero West  
Oakland, CA 94607

Re: Your Request for Advice  
**Our File No. A-19-161**

Dear Mr. Brennan:

This letter responds to your request for advice regarding the lobbying provisions of the Political Reform Act (the "Act").<sup>1</sup> Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

### QUESTION

May an individual contract lobbyist register as multiple separate lobbying firms?

### CONCLUSION

Because a central purpose of the Act is ensuring centralized public access to lobbyist information and the Act's lobbyist reporting requirements contemplate a contract lobbyist will be associated with one lobbying firm, an individual contract lobbyist should not register as more than one lobbying firm.

### FACTS AS PRESENTED BY REQUESTER

You are registered with the Secretary of State (SOS) as a lobbyist for the lobbying firm Rooster Public Strategies ("Rooster"), a limited liability company (LLC) of which you are the sole owner. You are also currently performing work on a contract basis for Schnitzer Steel Industries ("Schnitzer"), for whom part of your duties include lobbying. You have filed a Lobbyist Certification Statement (Form 604) for yourself as an individual lobbyist, and a Lobbying Firm Registration Statement (Form 601) for Rooster, for the 2019-2020 legislative session. Rooster's Lobbying Firm Registration Statement lists you as Rooster's sole lobbyist.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

You now seek guidance on how to amend your and Rooster's lobbying statements to properly disclose your lobbying activity on behalf of both Rooster and Schnitzer. Specifically, you ask whether it is permissible for you to register as two distinct lobbying firms: "Patrick Brennan," and "Rooster," each of which would report its own clients and activities separately to SOS.

### ANALYSIS

The Act requires lobbyists, lobbyist employers, and lobbying firms to register with the Secretary of State and file periodic reports disclosing money spent to influence legislative or administrative action. (Sections 86100 et seq). Under the Act, a contract lobbyist is an individual who receives or is entitled to receive compensation of \$2,000 or more in a calendar month to communicate directly with any state, legislative or agency official to influence legislative or administrative action *on behalf of someone other than the individual's employer*. (Section 82039; Regulation 18239(b)). Conversely, an in-house lobbyist is an individual who spends one-third or more of his/her compensated time in a calendar month engaging in direct communication with any state, legislative or agency official to influence legislative or administrative action *on behalf of the individual's employer*. (Regulation 18239(c)). An individual or organization that employs a lobbyist is a lobbyist employer (Section 82039.5), while a lobbying firm is a business entity—including an individual contract lobbyist—that is compensated to communicate directly with any state, legislative or agency official to influence legislative or administrative action on behalf of a client. (Section 82038.5).

One central purpose of the Act is to prevent improper influence over public officials by regulating the activities of lobbyists and requiring disclosure of payments made in connection with influencing legislative or administrative action. (Section 81002(d)). While the Act does not explicitly prohibit a lobbyist from forming more than one lobbying firm, the structure of the Act's lobbying reporting requirements contemplate that a lobbyist will maintain only one lobbying firm. Lobbyist Reports (Form 615) are filed with a Lobbying Firm Report, (Section 86113). A Lobbyist Report (Form 615) details all activity expenses, and contributions of \$100 or more, made by the lobbyist. But information about items lobbied and payments made for lobbying activity on behalf of a client are reported on the Lobbying Firm Report (Form 625). The two reports in tandem provide comprehensive disclosure of the lobbying activities of the lobbyist.

If a lobbyist has multiple lobbying firms, the lobbyist reports attached to the lobbying firms' reports would either include information about both firms on the same report, or only include lobbyist information specific to the firm for which the lobbyist report is attached. This would lead to lobbyist reports that are either over-inclusive, or that fail to capture the totality of the lobbyist's activity. Either way, it would lead to reports that are confusing, misleading, or incomplete.

We have previously advised that, in order to allow full public access to information concerning the activities of individual lobbyists, each lobbyist should register and file his or her Lobbyist Reports (Form 615) with only one lobbying firm or lobbyist employer. (see, e.g., *Hewitt Advice Letter*, A-90-446). In the *Hewitt* letter, the Commission addressed whether an individual contract lobbyist may be registered as a lobbying firm and also as an employee lobbyist for another lobbying firm. While nothing in the Act or Regulations prohibits an individual from registering as both a lobbying firm and contracting to provide lobbying services to the clients of another lobbying firm, we advised Ms. Hewitt that she may only be registered to lobby on behalf of one lobbying

firm. Otherwise, a member of the public reviewing Ms. Hewitt's Lobbying Firm Report (Form 625), for example, would not know that Ms. Hewitt also provided lobbying services to the clients of another lobbying firm.

Similarly, in order to provide the public with centralized information regarding lobbyist activity, we have advised that an in-house lobbyist who also contract with clients individually must register as an individual contract lobbyist (lobbying firm) and disclose both payments received from his corporate employer and contract clients on his Lobbying Firm Report (Form 625).<sup>2</sup>


In this case, you are the sole registered lobbyist for and owner of Rooster, a business entity registered with SOS as a lobbying firm. In addition to Rooster, you also perform lobbying services under a contract with Schnitzer. However, because you are an independent contractor, and not an employee of Schnitzer, you are not an in-house lobbyist for Schnitzer under Regulation 18239(c). Thus, you are a lobbyist for Rooster and you and Rooster must report all of your activity on your respective periodic reports including your activity on behalf of your client, Schnitzer.

More specifically, you have filed a Form 604 and a Form 601 on behalf of yourself and Rooster, respectively. When a lobbying firm adds a new client, it must file a Form 605 – Amendment to Registration, prior to attempting to influence legislative or administrative action on behalf of the client. Therefore, because you are the sole owner and only registered lobbyist for Rooster, Rooster should file a Form 605 adding Schnitzer as a client before you attempt to influence legislative or administrative action on behalf of Schnitzer. On your Report of Lobbying Firm (Form 625), you may indicate that payments from Schnitzer are to you directly, rather than to Rooster.

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

Sincerely,

Dave Bainbridge  
General Counsel



By: Toren Lewis  
Counsel, Legal Division

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<sup>2</sup> See, e.g. Example 1.7 in Chapter 1.7 of the FPPC Lobbying Disclosure Information Manual, enclosed.