



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Roseland, New Jersey 07068

ADVISORY OPINION No. 06-1982

Dear Mr. Kant:

Your letter to the Election Law Enforcement Commission requesting an advisory opinion has been considered by the Commission and I have been directed to issue this response. You have asked whether a company or firm that engages in the business of influencing legislation and receives fees from lobbyists for services related to their lobbying activity must file an annual report pursuant to Chapter 150 of the Laws of 1981 (N.J.S.A. 52:13C-20 et seq.) if the company or firm itself did not engage in "direct, express and intentional communication with legislators or the Governor or his staff, undertaken for the specific purpose of affecting legislation..." during the reporting year. For the reasons herein stated, you are advised that under such circumstances the business or firm has no filing requirement.

You have informed the Commission that your inquiry is on behalf of a law firm that represents several non-profit organizations and serves as their legislative agent on a retainer basis. The firm provides a variety of legal services which include, but are not limited to, monitoring State and federal court decisions, preparation of legal opinions, attendance of organization meetings and the monitoring of State and federal legislation. During the 1981 calendar year, the firm informed members of its client organizations of bills that might be of interest. However, the firm did not engage in any communication with legislators or the Governor or his staff for the purpose of lobbying. The firm is unable to predict whether in future years it may become necessary to engage in lobbying communications.

You have expressed the view that under such circumstances where there has not been any direct lobbying communication the firm does not have any reporting obligations under Chapter 150.

The Commission concurs with your conclusion. The term "legislative agent" is defined as "any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value including reimbursement of his expenses... to influence legislation by communication, personally or through any intermediary, to the Legislature or the Governor or his staff, or who holds himself out as engaging in the business of influencing legislation by such means...",

L. 1981, c 150, sect. 1, N.J.S.A. 52:13C-20(g). This definition requires that a business or firm must itself make a lobbying communication before it can be understood to be a "legislative agent". If the firm itself has not made such a communication during a reporting year, the annual reporting requirements of section 2 of Chapter 150 cannot be imposed. However, should the firm undertake a lobbying communication during a reporting year on behalf of any of its clients, that firm would meet the definition of the term "legislative agent". In such a case, the firm would be required to report the following:

"Fees, salary allowances or other compensation in full, or that pro rata share related to Direct Communication received by a legislative agent. ... A law firm, advertising agency, public relations firm, account firm or similar organization which spends only a portion of its time in legislative activity on behalf of a lobbyist shall be required to report only that portion of its fees as are related to Direct Communication." Commission Regulation N.J.A.C. 19:25-8.6(a)(1).

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

by: GREGORY E. NAGY
Staff Counsel

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