



## State of New Jersey

### ELECTION LAW ENFORCEMENT COMMISSION

COMMISSIONERS:

ANDREW C. AXTELL  
CHAIRMAN  
M. ROBERT DECOTIIS  
VICE CHAIRMAN  
HAYON PROCTOR  
ALEXANDER P. WAUGH, JR.

NATIONAL STATE BANK BLDG., SUITE 1114  
28 W. STATE STREET, CN-188  
TRENTON, NEW JERSEY 08608  
(609) 292-8700

SCOTT A. WEINER  
EXECUTIVE DIRECTOR

EDWARD J. FARRELL  
COUNSEL

February 2, 1983

James B. Appleton  
William J. Kohm Associates, Inc.  
496 Kloderkamack Road  
Oradell, New Jersey 07649

ADVISORY OPINION No. 02-1983

Dear Mr. Appleton:

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 several questions concerning the filing responsibilities under the Legislative Activities Disclosure Act (N.J.S.A. 52:13C-18 et seq.) of lobbyists that conduct lobbying activity exclusively through an outside legislative agent, i.e. William J. Kohm Associates, Inc.

Initially, you have asked whether certain clients pursuant to the Act and Commission Regulations may satisfy their annual reporting requirements set forth in N.J.S.A. 52:13C-22.1 by filing a "Designation of Legislative Agent Form L-2." You describe the relationship of your firm with such clients as billing them for lobbying, fees and expenses associated with direct lobbying activities as well as for production costs associated with direct lobbying materials. You state further that the clients' only payments associated with lobbying activities in this State are to your firm.

Commission Regulation N.J.A.C.19:25-8.11(b) provides as follows:

- (b) Every organization which itself has a filing obligation as a lobbyist pursuant to this subchapter is not relieved of that obligation by virtue of the fact that a legislative agent engaged, designated or employed by it has a filing obligation; except that a lobbyist required to file a report pursuant to the Act may designate a legislative agent in its employ or otherwise engaged or used by it to file a report on its behalf, provided such designation is made in writing by the lobbyist, is acknowledged in writing by the designated legislative agent and is filed with the Commission on or before the date on which the report of the lobbyist is due for filing, and further provided that any violation of the Act shall

subject both the lobbyist and the designated legislative agent to the penalties provided by the Act and this subchapter.

The designation (Form L-2) must be executed by both your client and your firm, and your client-lobbyist must represent to the Commission that the only reportable lobby expenditures incurred by the client were those made to your firm. The lobbyist-client may be relieved of its annual reporting obligation because, under such circumstances, all of its reportable expenditures will be reflected in the annual report filed by William J. Kohm Associates, Inc. A copy of the Form L-2 is attached to this opinion and incorporated herein.

You have also inquired what filing obligations attach when your client is an association comprised of several member organizations. Specifically, you have asked whether the individual members as well as the organization to which they belong acquire filing obligations under the Act.

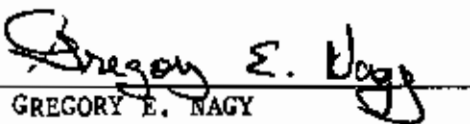
Your client-association is a "lobbyist" within the meaning of that term as defined in N.J.S.A. 52:13C-20(d) by virtue of the fact that it engages your firm to conduct lobbying activity in its behalf. If the organization receives more than \$2,500 or makes expenditures of more than \$2,500 in any calendar year for the purpose of lobbying, filing obligations attach. N.J.A.C. 19:25-8.4. The association may be eligible to file the designation (Form L-2) if all its financial activity is conducted through your firm.

The members of the association also come within the term "lobbyist" as defined in the Act because they are engaging the association to conduct lobbying activity in their behalf. As you suggest in your inquiry, the dues paid by the members for the association may be reportable as lobbying expenditures. That question can only be resolved by determining if the association is a "major purpose" entity because more than 50 percent of its total expenditures are for lobbying activity. See N.J.A.C. 19:25-8.7 (a)3. If the association is a "major purpose" entity for reporting purposes, and if the proportionate share of dues attributable to lobbying purposes exceeds the \$2,500 threshold, the member has a reporting requirement. The reporting requirement may be satisfied by the filing of a designation if all of its lobbying activities are represented by the dues paid to the association, and if the association in turn is carrying out its lobbying activities through a single legislative agent, such as your firm. However, if the member conducts other lobbying activity, the member must file the annual reporting form required of all lobbyists (Form L-1). See N.J.S.A. 52:13C-22.1.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:

  
GREGORY E. NAGY  
Staff Counsel

GEN/db  
Enclosure