



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Respond to:
CN-185

Trenton, New Jersey 08625-0185
(609) 292-8700

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Deputy Director

GREGORY E. NAGY
Legal Director

JAMES F. WYŚE
Counsel

January 29, 1997

M. Paige Berry, Esq.
Picco Herbert Kennedy
50 West State Street, Suite 1000
Trenton, New Jersey 08607-1388

Re: Advisory Opinion Request 05-1996

Dear Ms. Berry:

The Commission is in receipt of your correspondence, dated January 14, 1997, in reference to your earlier request for an advisory opinion. The Commission appreciates the information which you have provided concerning the Federal Lobbying Disclosure Act of 1995. You have suggested that the Commission consider enacting an exception to lobbying reporting and registration in New Jersey for certain communications related to rulemaking and have advised that this exception currently exists in the Federal Lobbying Disclosure Act of 1995.

Unlike the Federal Lobbying Disclosure Act which you discussed in your letter, the New Jersey Legislative Activities Disclosure Act, N.J.S.A. 52:13C-18, et seq. (hereafter, the Lobbying Act), specifically includes all phases of administrative agency rulemaking within the ambit of reportable lobbying activity. In defining the term "influence regulation," the Lobbying Act includes "any attempt, whether successful or not, to secure or prevent the proposal of any regulation. . . ." (see N.J.S.A. 52:13C-20p). Further, the Assembly State Government Committee Statement to A-4617, which amended the Lobbying Act in 1991 (L.1991, c. 243), stated that the 1991 amendments expand "the scope of the lobbying law" to include "[i]ndividuals employed to influence administrative rule-making" and "[l]obbying activities directed . . . at Executive Branch staff responsible for or involved with administrative rule-making." Nothing in the Lobbying Act or the Statement indicates an intent to exclude the communications you suggest, such as petitions for rulemaking, proposed regulations, or other items proposed in the New Jersey Register, from the scope of lobbying activity requiring registration and reporting in New Jersey.

The Commission has specifically interpreted the Lobbying Act to include pre-proposal rulemaking activity. In Advisory Opinion 06-1992 (copy enclosed), the Commission examined application of the Lobbying Act to activity by persons on a "task force" established by the New Jersey Department of Environmental Protection and Energy to gather information prior to proposing new rules. The

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Commission determined that "even in the absence of a pending, formal rule proposal, the Commission believes that the Lobbying Act registration and reporting requirements are applicable where it is reasonably foreseeable that communications may influence regulatory actions."

In a letter to you dated December 18, 1996, Legal Director Gregory E. Nagy indicated that the Commission could not issue a response to your request for an advisory opinion in the absence of a specific fact record. In your January 14, 1997 response there is no information concerning the regulation upon which lobbying activity is contemplated, the lobbying actions to be undertaken, the identity of the client on whose behalf the lobbying will be undertaken, or such other facts from which the Commission could form an opinion on whether or not any of the statutory exceptions might be applicable. Further, without this information, there does not appear to be any means for the Commission to determine what parties may have standing to seek an advisory opinion. Therefore, there does not appear to be a basis for resubmitting your request for an advisory opinion to the Commission.

Please do not hesitate to contact me if you have any questions. Thank you for your interest in the Commission.

Very truly yours,



NEDDA G. MASSAR, ESQ.
Deputy Legal Director

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