

# **TESTIMONY OF THE CITY CLERK**

NYC Campaign Finance Board

March 1, 2005

Good morning Chairman Schwartz and members of the New York City Campaign Finance Board. I am Victor L. Robles the City Clerk of the City of New York and the Clerk of the City Council. Today I am accompanied by the counsel to the City Clerk, Patrick Synmoie. As you know the City Clerk wears many hats. Not the least of my duties as the City Clerk is to administer and enforce provisions of the New York City Lobbying Law. (Title 3 Subchapter 2 of the Administrative Code of the City of New York). By way of background information, the New York City lobbying law was enacted in 1986 (Local Law 14 of 1986 codified as Title 3 Subchapter 2 of the Administrative Code of the City of New York) (the “Lobbying Law”) and became effective on December 1, 1986. Under that law all lobbyists must register annually and submit four quarterly reports. Clients must submit an annual report.

What is a lobbyist? The answer appears to be simple enough: Someone who is engaged in lobbying. The New York City Administrative Code Section 3-211(a) defines a lobbyist as “every person

or organization retained, employed, or designated by any client to engage in lobbying.” Of course certain governmental officials are excluded. The law provides that:

The term "lobbyist" shall not include any officer or employee of the City of New York, the State of New York, any political subdivision of the State, or any public corporation, agency or commission, or the United States when discharging his or her official duties.”

Now, how do you define lobbying? “Lobbying” or “lobbying activity” is any attempt to influence any specific actions (that I will list shortly) other than a determination in an adjudicatory proceeding. The specific actions are:

i. the passage or defeat of a local law or resolution by the City Council;

ii. the approval or disapproval of a local law or resolution by the Mayor;

iii. any determination made by an elected city official or an officer or employee of the city with respect to the procurement of goods, services or construction, including the preparation of contract specifications, or the solicitation, award or administration of a contract, or with respect to the

solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies;

iv. any determination by the mayor, city council, city planning commission, a borough president, a borough board, or community board concerning zoning or the use, development or improvement of real property subject to city regulation;

v. any determination made by an elected city official or an officer or employee of the city with respect to the terms of the acquisition or disposition by the city of any interest in real property, with respect to a license or permit for the use of real property of or by the city, or with respect to a franchise, concession or revocable consent;

vi. the adoption, amendment or rejection by an agency of any rule having the effect of law;

vii. the outcome of a rate making proceeding before an agency; and

viii. any determination of a board or commission.

There are various exceptions to the lobbying law. Examples of these exceptions include persons who advise other persons who perform lobbying;

newspapers and other types of media; witnesses to legislative or executive agency hearings or adjudicatory proceedings; and contractors or prospective contractors who interact with any City official as part of the normal procurement process.

Let me summarize the mechanics of lobbyist registration and reporting. The first step is to determine if one meets the \$2,000.00 threshold: a person needs to expend, incur or receive an amount in excess of \$2000 of reportable compensation and expenses in order to be considered a lobbyist.

The next step is to register. Lobbyists who have been retained or employed *by December 15*, and reasonably expect to meet the threshold amount need to register by January 1st for the next year; lobbyists who have been retained or employed *after December 15*, and reasonably expect to meet the threshold amount need to register *fifteen* days after retention or employment and in no case later than *ten* days after actually incurring or receiving such compensation or expenses.

The registration procedure is rather straightforward:

i. Obtain a registration form from the offices of the City Clerk. (Typically we mail registration statements to all lobbyists who registered in the past calendar year.)

ii. Complete the registration form (one for each client) and file together with the retainer agreement or designation letter, with a check in the appropriate amount: \$150 for the first client and \$50 for each additional client.

iii. Registration must be done on an annual basis. If the period of representation exceeds one year, a new registration is required at the beginning of the next calendar year.

iv. Each lobbyist must file quarterly (periodic) reports for each client. The reporting periods are January 1 to March 31; April 1 to May 31; June 1 to September 30; and October 1 to December 31. Periodic report is due by the 15th day after the end of the reporting period, in other words on April 15<sup>th</sup>, June 15<sup>th</sup>, October 15<sup>th</sup> and January 15<sup>th</sup>.

v. Separate annual reports must be filed by both the lobbyist and the client. They are due by January 15<sup>th</sup>. In the lobbyist's case the fourth quarter periodic report doubles as the lobbyist's annual

report. Clients with multiple lobbyists must list each lobbyist and report the compensation paid to each lobbyist.

There is a tradition that we have inherited that is carried on to this day, which is the annual publication of the lobbyist report. That document lists all of the lobbyists and clients that have registered with us and details the total sums received by lobbyists in a given calendar year. Each year we strive to produce this document by early May.

There is an obstacle which we face as we work to meet our self-imposed early May deadline. That obstacle is that lack of teeth the law gives us in dealing with late filers. Currently there is no automatic provision in the Lobbying Law to penalize a lobbyist that does not meet any of the filing deadlines. The enforcement powers we have are time consuming and have never been tested. We therefore resort to calling the late filers in an attempt to harass them into submitting their reports. That's quite an undertaking when you consider there were over two hundred lobbyists registered last year.

To combat late filing, we have established an internal policy that after a certain deadline, the lobbyists who have not submitted all of their reports

will have reported only the information we have as of that date. We realize this is not the optimal situation since the report will not be a true reflection of the ultimate facts. Without this policy we would never be able to get our annual report published. Even last year we published an amended report when a lobbyist complained that their numbers were inaccurate. It turns out they simply forgot to file all of their reports. Clearly the enactment of an automatic late filing penalty provision would improve our ability to publish our report on time and give lobbyists an incentive to file on time.

In closing, we thank you for the opportunity to provide testimony concerning the administration of the New York City Lobbying Law and the role of lobbyists in public elections. We appreciate the efforts of the Campaign Finance Board to shape the manner in which campaigns for public office are conducted for the benefit of all New Yorkers.

[There are handouts for board members, including a copy of my testimony, a copy of the lobbying law and the lobbying report for 2003.]

I would be happy to entertain any questions any members have.