



**THE CITY OF NEW YORK
OFFICE OF THE CITY CLERK
141 WORTH STREET
NEW YORK, N.Y. 10013**

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John Doe
101 Main Street
New York, NY 10013

Re: Information about New York City's Lobbying Law

Dear Sir/Madam:

I am writing on behalf of the City Clerk of the City of New York, who is responsible for administering and enforcing New York City's Lobbying Law. The reason for this letter is to inform you of a recent development which could be relevant to your business or organization.

The New York City Law Department recently provided guidance to the City Clerk regarding how the City's Lobbying Law applies to activities by placement agents and other persons who attempt to influence determinations of the boards of trustees of the City's five pension funds about investments of the pension funds. The Law Department opined that placement agents, other third parties retained by investment firms, and employees of investment firms are lobbying when those persons attempt to influence decisions made by the New York City Comptroller, the Comptroller's staff, the boards of trustees of the pension funds and retirement systems of New York City, or members of their staffs, about the investment of pension funds.

I have enclosed the Law Department's opinion and a summary of the City's Lobbying Law. Please carefully review the enclosed documents to determine whether and how the Lobbying Law may apply to you, your business or organization. Any person, business or organization that fails to timely file lobbyist or client reports may incur late filing fees and civil penalties. In addition, the failure to file any statement or report constitutes a class A misdemeanor. Please keep in mind that there are additional ramifications for individuals or organizations that are lobbyists, including restrictions on contingency fee arrangements, campaign contributions and gifts to public servants.

Beginning in January 2011, this office will be reviewing the activities of individuals, businesses, and organizations that, as of January 1, 2011, are attempting to influence investment decisions made by the pension funds and retirement systems of New York City. Parties that fail to comply with the Lobbying Law will be subject to the penalties described above. If you have already complied with the laws discussed in this letter or determined they are inapplicable, you need take no further action. For more information please visit our website <http://www.cityclerk.nyc.gov>. We encourage individuals, businesses and organizations with any questions to contact our office at 212-669-8171.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Synmoie", with a long horizontal flourish extending to the right.

Patrick Synmoie, Esq.
Counsel to the City Clerk

New York City's Lobbying Law: Summary of Key Provisions

Introduction

This is a summary of the New York City law governing lobbyists and lobbying activities. The Office of the City Clerk, through its Lobbying Bureau, administers the lobbying law codified in Title 3, Chapter 2, Subchapter 2 of the New York City Administrative Code and Title 51 of the Rules of the City of New York (Lobbying Law). There are also Advisory Opinions on the City Clerk's website that discuss certain aspects of the law. Please visit the Lobbying Bureau website at http://www.cityclerk.nyc.gov/html/lobbying/lobbying_bureau.shtml for more information.

Fees

Filing fees are due when filing a Statement of Registration (\$150 for the first Client registered and \$50 for each additional Client registered). Fees can be paid by check, credit card (in person only), or money order payable to the City Clerk.

Who is a Lobbyist?

A Lobbyist is defined as every person or organization retained, employed, or designated by a Client to engage in lobbying.

Who is a Client?

A Client is every person or organization who retains, employs, or designates any person or organization to carry on lobbying activities on its behalf.

Lobbying Defined

Lobbying is the attempt to influence the following eight types of actions:

1. Passage or defeat of a local law or resolution by the City Council;
2. Approval or disapproval of a local law or resolution by the Mayor;
3. Any determination by an elected City official, City officer, or employee concerning:
 - a. the procurement of goods, services, or construction, or
 - b. the solicitation, award or administration of a contract
 - c. the solicitation, award, or administration of a grant, loan, or agreement involving the disbursement of public monies;
4. Any determination by the Mayor, the City Council, the City Planning Commission, a Borough President, Borough Board or a Community Board concerning zoning or the use, development, or improvement of real property subject to City regulation;
5. Any determination by an elected City official, a City officer employee concerning:
 - a. the terms of acquisition or disposition by the City of any interest in real property;
 - b. a license or permit for the use of real property of or by the City; or
 - c. a franchise, concession, or revocable consent;
6. The adoption, amendment, or rejection of any rule by an agency;
7. The outcome of a ratemaking proceeding before an agency; or
8. Any determination of a board or commission.

For the complete definition of lobbying, please refer to Section 3-211 of the New York City Administrative Code.

Requirement for a Lobbyist to Register a Client

- When a Lobbyist reasonably anticipates that in the coming year it will earn, receive, or expend over \$2,000 in compensation and expenses for lobbying in New York City, the Lobbyist is required to file a Statement of Registration.

- The \$2,000 threshold applies cumulatively to compensation a Lobbyist receives from all its Clients; it is not a threshold that must be reached for each individual Client. Once the threshold is exceeded, the Lobbyist must file a Statement of Registration for each of its Clients.
- A Lobbyist who knows or reasonably anticipates by December 15 of the present year that it needs to file a Statement of Registration for the upcoming year must file the Statement of Registration by the following January 1.
- In all other cases a Lobbyist must file within 15 days of being retained, but no later than 10 days from actually incurring or receiving reportable compensation and expenses.
- A Statement of Registration must be filed for each Client each calendar year.

For more information about statements of registration, please review Section 3-213 of the New York City Administrative Code.

Requirement for a Client to File

- When a Client cumulatively¹ expends over \$2,000 annually in reportable compensation and expenses for lobbying in New York City, it must file a Client Annual Report.
- In addition to a Client Annual Report, a Client that lobbies on its own behalf is required to file Lobbyist reports (Statement of Registration, Periodic Reports, Lobbyist Annual Report, and Fundraising/Political Consulting Report(s) (if applicable)) if it expends over \$2000 annually in reportable compensation and expenses for such lobbying.

For more information about Client Annual Reports, please review Section 3-217 of the New York City Administrative Code.

Requirement for Filing Reports

- Once a Lobbyist has filed a Statement of Registration, a Lobbyist is responsible for filing the following reports:
 - Up to six bi-monthly Periodic Reports;
 - Lobbyist Annual Report (also known as the Sixth Periodic Report);
 - Up to six Fundraising/Political Consulting Report(s), (if applicable); and,
 - Termination Report(s), (if applicable).
- If a Lobbyist has filed a Statement of Registration, the named Client is responsible for filing a Client Annual Report if it meets the criterion described above under “**Requirement for a Client to File**”.

Method of Registration: Enrollment and Filing

- Lobbyists and Clients are required by law to file reports electronically using the e-Lobbyist application.
- e-Lobbyist is designed to assist filers by providing an e-Lobbyist user guide and user-friendly data entry fields.
- To use e-Lobbyist for the first time, each Lobbyist and Client must first enroll. Enrollment is a one-time process and is not repeated in any subsequent year.
- To enroll, the Principal Officer for each Lobbyist and Client must provide pertinent information about each entity.
- Once this process is completed, the Principal Officer will receive two emails from e-Lobbyist: a completion deadline email and a password email. The Lobbyist or Client should follow the link in the password email and create a password.
- The completion deadline email instructs the Lobbyist or Client to send a voided check or an affidavit to the Lobbying Bureau within 10 days of the date of the enrollment request. The Lobbyist or Client must submit the completion deadline email with the voided check or affidavit to the Lobbying Bureau.

¹ includes aggregate compensation and expenses paid to all Lobbyists retained by the Client

- Enrollment is completed once a staff member of the Lobbying Bureau receives the completion deadline email and voided check (or affidavit) and accepts it into e-Lobbyist. Once the enrollment is accepted, the Principal Officer of the Lobbyist may proceed with filing the Statement(s) of Registration for an enrolled Client. After the Client's enrollment is accepted, the Principal Officer of the Client will be able to file a Client Annual Report at the appropriate time.
- When the Statement of Registration is filed, the Lobbyist is required to submit payment of the registration fee and either mail the retainer agreement between the Lobbyist and Client to the Lobbying Bureau or upload it via e-Lobbyist. If there is no written retainer agreement between the Lobbyist and Client, the Lobbyist is required to reduce the terms of the agreement to writing, and submit it by either mailing it to the Lobbying Bureau or uploading it via e-Lobbyist.
- To use e-Lobbyist the Lobbyist or Client enters its user I.D. (email address) and password at the login page located at nyc.gov/elobbyist.

Termination of a Client

- Within 30 days of a termination of an agreement for services, both the Lobbyist and a Client must submit a Termination Notice via e-Lobbyist.
- After a Termination Notice is filed, the Lobbyist must report all lobbying activity occurring within the reporting period in which the termination occurred.
- In addition, both the Lobbyist and the Client must file an annual report for the year in which the termination took place.

No Contingent Retainers

- Clients are not permitted to retain, employ, or designate any Lobbyist if the rate or amount of compensation is partly or wholly contingent or dependent upon the Lobbyist's results in influencing any City legislative, executive, or administrative action.
- Lobbyists are not permitted to accept any such contingent retainer, employment, or designation.

Retention of Records

Lobbyists and Clients must keep for at least five years a detailed and exact account of:

- All compensation of any amount or value of any kind;
- Names and addresses of every person paying or promising to pay compensation of \$50 or more and the date of that promise;
- All expenditures made by or on behalf of the Client; and
- Names and addresses of every person to whom any item of expenditure over \$50 is made and a receipted bill for each expenditure.

Violations of the Lobbying Law

Lobbyists and Clients are subject to penalties for violating the Lobbying Law that include, but are not limited to, the following:

- Failure of a Lobbyist to register a Client or failure of a Client to register itself if lobbying on its own behalf;
- Failure to submit any filing (Statement(s) of Registration, Periodic Reports, Sixth Periodic Report(s)/Lobbyist Annual Report(s), Client Annual Report, Fundraising/Political Consulting Report(s), Termination Notice(s));
- Late filing of the Statement(s) of Registration or any filing;
- Failure to complete or timely amend any section or portion of the Statement(s) of Registration or any filing;
- Failure to supply the correct information in the Statement(s) of Registration or any filing;
- Failure to pay any required fee;
- Failure to pay a penalty in a stated period of time may result in payment of an additional penalty if the initial penalty so provides.

Extensions of Filing Deadlines

A Lobbyist or Client may request an extension to file a required report if:

- The Lobbyist or Client can show good cause;
- The request is made in writing (email acceptable); and,
- The request is made no later than two business days before the filing deadline.

Penalties

Any person or organization that violates the Lobbying Law is subject to the following penalties:

- Any person or organization who knowingly or willfully violates any provision of the Lobbying Law or the Rules:
 - shall be guilty of a Class A misdemeanor, and shall be subject to a civil penalty of up to \$30,000 to be assessed by the City Clerk; or
 - shall be subject to an order to cease all lobbying activities for up to sixty days as determined by the City Clerk; or
 - shall be subject to both a civil penalty and an order to cease lobbying activity.
- Any person or organization who violates an order to cease issued by the City Clerk or who enters into a Contingent Retainer or accepts or pays contingency fees:
 - shall be guilty of a Class A misdemeanor, and
 - shall be subject to a civil penalty of up to \$30,000 to be assessed by the City Clerk.
- Any person or organization who fails to file a Statement of Registration or any filing required by the Lobbying Law will be notified by the City Clerk of such failure by certified mail, return receipt requested. The filing must be made within 14 business days of the mailing of such notice. Any person or organization who fails to file any Statement of Registration or filing within the 14 day period:
 - shall be guilty of a Class A misdemeanor, and
 - shall be subject to a civil penalty of up to \$20,000 to be assessed by the City Clerk.
- In addition to the above penalties, any Lobbyist who fails to file a Statement of Registration or other filing, or a Client who fails to file a Client Annual Report on time, shall be subject to late penalties as follows:
 - Any person or organization that has never previously filed a Statement of Registration or any other filing, and is filing for the first time will be charged a late filing penalty of \$10 per day, per filing, for each day the filing is overdue.
 - Any other person or organization that has previously filed with the City Clerk will be charged a late filing penalty of \$25 per day, per filing, for each day the filing is overdue.

Final Note

This outline is only a summary to guide you in your initial review of the NYC's Lobbying Law. You should determine, based upon a review of the law, whether or not the law applies to you and/or your organization or business and what steps are needed to be in compliance of the Lobbying Law. If you have any questions about this summary or about the Lobbying Law and how such law applies to you, your organization or business, please contact the NYC Lobbying Bureau at 212-669-8171. You may also visit our website at www.cityclerk.nyc.gov

See prior announcement for the opinion issued by the Law Department

<http://www.cityclerk.nyc.gov/downloads/pdf/placementagents.pdf>