

STATE OF COLORADO
Department of State

Civic Center Plaza
1560 Broadway, Suite 200
Denver, CO 80202-5169



Donetta Davidson
Secretary of State

William A. Hobbs
Deputy Secretary of State

August 11, 2003

Mr. Steven A. Burk
Attorney at Law
Quarles & Brady, LLP
411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4497

RE: Grassroots lobbying

Dear Mr. Burk:

Thank you for your inquiry concerning grassroots lobbying. Also, please accept my apologies for taking so long to respond to your inquiry.

As you noted in your letter, the statutory definition of "lobbying" in Colorado includes "soliciting others to communicate with a covered official for the purpose of aiding in or influencing" legislative or regulatory actions. (Section 24-6-301 (3.5) (a), Colorado Revised Statutes) Thus, I believe that you are correct that lobbying includes activities by corporate employees to encourage other persons to contact public officials to support or oppose official action, such as when a corporation sends letters to customers urging them to contact their legislators to support or oppose pending legislation.

However, an individual who carries out such activities would be required to register and report only if the individual qualifies as a "professional lobbyist". (Sections 24-6-303 (1) and 24-6-302 (2.5), C.R.S.) A professional lobbyist is defined as "any individual who engages himself or is engaged by any other person for pay or for any consideration for lobbying". (Section 24-6-301 (6), C.R.S.) If a corporation directs an employee to use paid work time to carry out activities that fall under the definition of "lobbying", then it would appear that the employee is, at least technically, a professional lobbyist, and therefore subject to registration and reporting.

If such corporate "lobbying" is sufficiently minimal, it could be argued that it would not be reasonable to expect registration and reporting. An example might be a one-time occurrence, where a corporate newsletter includes a small item encouraging readers to contact legislators urging them to support or oppose a particular bill.

When there is any doubt, however, we encourage people to err on the side of registration and reporting. Full disclosure furthers the purposes of the lobbyist law. Furthermore, legislators have expressed a strong desire to know who is behind any organized effort that results in phone calls, letters, and e-mails to them about particular legislation.

If a corporation is engaging in the activity you described in your letter, compliance with the lobbyist regulation law might be achieved by having one individual register and report on behalf of the corporation (presumably, a person who is directing the communications), and then having that person report all of the corporation's activities and expenses in his or her reports. In other words, the activities undertaken by support personnel and other persons acting at the request of the principal "lobbyist" would be reported on the principal's report. See section 24-6-301 (3.5) (b), C.R.S., which provides as follows:

24-6-301. Definitions. As used in this part 3, unless the context otherwise requires:

(3.5) (b) Subject to the exclusions and provisions of this paragraph (b), for the purpose of determining when contributions and expenditures become reportable in disclosure statements, "lobbying" includes activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact ultimately occurs, . . . (Emphasis added.)

I hope this is helpful. We appreciate your interest in compliance with Colorado law on lobbying activities.

If we can be of further assistance, please contact us again. Our program lead in the area of lobbyist registration is Dorothy Ferranti, who may be reached at 303-894-2200, extension 6304.

Very truly yours,



William A. Hobbs
Deputy Secretary of State



411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4497
Tel 414.277.5000
Fax 414.271.3552
www.quarles.com

*Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples and Boca Raton, Florida
Chicago, Illinois (Quarles & Brady LLC)
Milwaukee and Madison, Wisconsin*

Writer's Direct Dial: 414.277.5403
E-Mail: sburk@quarles.com

April 9, 2003

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**ELECTIONS / LICENSING
SECRETARY OF STATE**

Colorado Secretary of State
1560 Broadway, Suite 200
Denver, CO 80202-5169

RE: Grassroots Lobbying

Dear Secretary Davidson:

I am compliance counsel for a corporation that is both authorized to do business in Colorado and that employs registered professional lobbyists. To ensure full compliance with Colorado's Sunshine Law, I am writing to request that you clarify for me any registration or reporting requirements that apply to non-lobbyist corporate employees who engage in grassroots lobbying.

By "grassroots lobbying," I mean activities undertaken on behalf of the corporation which are meant to encourage other persons to contact public officials to support or oppose an official action. An example of such grassroots lobbying activities would be where the corporation sends letters to its customers encouraging them to contact their legislators to oppose a pending matter.

From my analysis of Colorado law, it appears that grassroots lobbying as I have described it falls within the definition of lobbying because the definition includes "soliciting others to communicate" with a covered official. Colo. Rev. Stat. § 24-6-301(3.5)(a). From this, it would appear that any individual who receives compensation for conducting grassroots lobbying must register as a professional lobbyist and report accordingly. However, my discussion with an information specialist in the Election Division indicated that this may not be the case.

It is clear to me that the expenditures a professional lobbyist makes for grassroots lobbying are reportable on the lobbyist's monthly and annual disclosure reports. What is not clear, however, is how to treat the activities of a non-lobbyist corporate employee who is involved in the preparation and distribution of a grassroots lobbying communication in the situation when a lobbyist is not involved. More specifically, is a non-lobbyist corporate employee who distributes a letter to customers (or suppliers, distributors, etc.) required to register and report as a professional lobbyist?

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I would appreciate any guidance you could provide so that I may ensure full compliance with Colorado's law.

Please feel free to contact me if you have any questions.

Sincerely,

QUARLES & BRADY LLP

A handwritten signature in black ink, appearing to read 'S.A. Burk', with a horizontal flourish extending to the right.

Steven A. Burk

SAB:mjp