

# LOBBYING SYNOPSIS

1996-2022

## EMPLOYER AUTHORIZATION

Every employer of a lobbyist shall verify such employment and the contents of the electronic Employer Authorization form submitted to the Commission not later than 15 business days after the lobbyist has registered with the Commission. If the employer is a corporation, association or labor union, any authorized officer or agent who is not the lobbyist shall provide electronic verification to the Commission. The authorization shall include the full and legal name and business address of both the employer and the lobbyist, the period of time during which the lobbyist is authorized to act and the subject or subjects of legislation, regulation or administrative action upon which the employer is represented. 29 Del. C. § 5833.

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### Non-compensated Volunteers--Commission Opinion No. 96-37

A corporate organization that did not pay its members said that if its members were required to register there would be no "employer" to provide authorization to act.

First, the definition of lobbyist in 29 Del. C. § 5831(a)(1) does not include the term "employer." Second, while § 5833 requires an "employer's" authorization, "employer" means "any person on whose behalf a lobbyist acts." 29 Del. C. § 5831(a)(3) (emphasis added). "Person" means "any individual, partnership, corporation, trust, joint venture and any other association of individuals or entities." 29 Del. C. § 5831(a)(4). It is not required that the individual be paid or have any of the rights or privileges one might find under the employment law. The definition of "employer" is more general--in line with the plain and ordinary meaning of "employ," which may or may not include pay: "to make use of someone or something; to use advantageously; to use or engage the services of; to provide with a job that pays wages or a salary; to devote to or direct toward a particular activity or person." *Merriam Webster's Collegiate Dictionary*, p. 379 (10th ed. 1994).

"Lobbyist" includes three categories of persons: (a) those who receive compensation; (b) those authorized to act as a representative for persons with a substantial purpose of influencing legislative or administrative action; and (3) those who expend funds on certain activities. 29 Del. C. § 5831(a)(1)(a), (b) and (c). To limit subparagraph (b) to "employer/employee" relationships would: (1) ignore the language defining "lobbyist" which does not refer to "employer"; (2) nullify subparagraph (a) which would encompass "employer/employee" relationships; and (3) be inconsistent with the statutory purpose of identifying for the public and public officials the pressures being brought to bear on government officials by "special interest groups." See, *United States v. Harris*, 347 U.S. 612, 625, 74 S. Ct. 808, 816 (1954) (purpose of lobbying statute).

## **Corporations With Only One Officer--Commission Opinion No. 96-55**

An individual advised the Commission that he is the sole owner and sole corporate officer of his company. Delaware corporate law permits such corporate structures. 8 *Del. C.* § 142(a). However, the employer's authorization for a lobbyist is to be signed by an officer or agent who is not the lobbyist, if the employer is a corporation, association or union. 29 *Del. C.* § 5833. The Commission held generally, the rules of statutory construction require that where there is no ambiguity in the statutory language, the language will be given its literal meaning. However, Delaware courts have held that where a literal reading would lead to an absurd and undesirable result, the statutory term should be modified to agree with legislative intent. *Law v. Developmental Child Care, Inc.*, Del Super., 523 A.2d 557, 560 (1987); *Helfand v. Gambee*, Del. Ch., 136 A.2d 558, 561(1957); *see also*, 2A *Sutherland Stat. Constr.*, § 46.07 (5th ed. 1992).

The legislative intent of lobbyist registration laws is to insure, through disclosure, that the public and government officials are informed of special interest groups so the public and government officials know what interests a lobbyist represents. *See, Commission Op. Nos. 96-08, 96-13, see also, United States v. Harris*, 347 U.S. 612, 98 L. Ed. 989, 74 S. Ct. 808 (1954).

Here, the statutory purpose is served because the lobbyist identified who will be contacting government officials, the company represented, and the types of interests represented. Also, the corporate records are public records so the public can identify the corporate officers if they wish.

To the extent a literal reading of the lobbying statute would require corporate reorganization merely to insure that another officer or agent of the corporation signed the employer's authorization, such reading seems absurd and undesirable when the public purpose is served without doing so. Further, as corporate law authorizes one individual to hold all offices of a corporation, to the extent the lobbying law would require relinquishing such statutory right and/or privilege, the Commission does not believe such a result would reflect true legislative intent. *See, Law, supra, at 560; Commission Op. No. 96-08* (where public purpose was served and literal reading of statute would neutralize other statutory provisions, it was held that literal compliance was not required). Accordingly, the lobbyist was allowed to sign his own employer's authorization form under these facts.