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Albany again shows it is clueless on corruption

By JOSHUA SPIVAK

When the New York state Legislature created the Joint Commission on Public Ethics, there had to be some concern over whether the new body could uphold the impossibly high standards of incompetence and idiocy that had marked past agencies designed to oversee the ultra-shaky ethics of government officials. After all, the speaker of the Assembly and the majority leader of the Senate don't both get convicted in a fortnight without some high-quality ethical blindfolds.

Fortunately, a recent advisory opinion by the ethics commission has shown that New Yorkers have nothing to fear. In an effort that manages to not only trash the basic principles of the First Amendment, but also exhibit an astounding lack of understanding of either public relations or modern journalism, the commission has written an advisory opinion that demands that any public relations consultant who tries to get the press to "deliver the client's lobbying message to a public official" by way of an editorial would be required to register as a lobbyist under state law.

The commission proposal tries to hedge its bets and limit the rules to the technical term of "grassroots lobbying." The proposal notes that passage or defeat of a bill or executive order must be the "intended byproduct of the lobbying," though the actual lobbying doesn't have to reference an actual existing bill. It could just be a proposal or it could be one of the thousands of bills introduced each year in Albany, not to mention on the local level. It is not hard to imagine that any professional public relations outreach would get caught up in this dragnet.

Additionally, "grassroots lobbying" — as defined by the commission — would not prevent elected officials from using the law to attack their opponents, many of whom don't have the means to defend themselves in regulatory court. We see elected officials use this type of behavior in election law all the time, and it is a rock-solid guarantee that they would use it here. If you happen to think that this law cannot and will not be abused by politicians, you might want to remember that six of the last eight legislative leaders in New York state ended their tenure with indictments that led to convictions (one of which, Joe Bruno's, was later overturned).

After some criticism, the commission recently revised its law to limit the questionable outreach to those seeking "editorials," not reported news articles. What the law fails to realize is that for many publications, "editorials" are written by the same people in charge of news coverage. Additionally, the best op-ed and editorial writers do actual reporting, and therefore should be fair game for any outreach. The commission not only lacks understanding of the structure of modern news publications, it also has no clue how the public relations game works. With all apologies to the good writers on the editorial page, the commission is delusional if they think PR consultants are more focused on getting editorials written rather than front page news stories.

I work as a public relations executive. Though some of my clients are lobbyists, my job is not to lobby for a bill or regulation — my work is about getting my clients' names in the papers as authorities on laws and news developments. But even if that were acceptable to the

commission — even if I stopped working for a lobbyist client — I'd still have to register. After all, as this op-ed shows, I'm also an "editorial writer" — I frequently write op-eds on political topics. Not only that, I write and publish a blog on a very specific political topic that gets thousands of views a month. So far, these roles have never conflicted. But based on the new definitions set forth by the commission, I would be violating this law, even if I talk to myself about current legislation.

It's no surprise that the state Legislature and the Ethics Commission would prefer that I shut up, even when I'm talking to myself. They want you to shut up, too. They want you to shut up about the fact New York state has the some of the most lenient and loophole-ridden campaign finance donation limits in the country; that Albany's leaders manage to pull in millions in outside income for practically no-show jobs; and that a steady parade of officials have been sent off to jail.

Instead, they want you to believe that nefarious public relations lobbying efforts are the root cause of the state's massive problems with basic ethics. The commission would rather run roughshod over the First Amendment and set up barriers for anyone trying to get attention to their issue.

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