

Post-Employment Lobbying

Under the Pledge

LOBBYIST
REDUCTION
INITIATIVE



"We have been able to reduce their size, but not their numbers."

“In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.”

Pledge paragraph 5

Definition of “lobby”:

“‘Lobby’ . . . shall mean to act . . . as a registered lobbyist.”

E.O. 13490, § 2(f)

In a nutshell:

“if a former appointee is a registered lobbyist for a particular client, he or she is prohibited by paragraph 5 of the Pledge from making any lobbying contact with a covered official on behalf of that client [during this Administration].”

DAEOgram DO-10-004

My Counseling Checklist

- See if any procurement responsibilities: PIA
- Recuse while seeking employment: 208/SOC/PIA
- Party matters on which she worked: 207(a)(1)
- Party matters under responsibility: 207(a)(2)
- Treaties: 207(b)
- ~~• One year cooling-off from agency: 207(c)~~
- ~~• Two year cooling-off from agency: Pledge par. 4~~
- ~~• Two year cooling-off from agency/all EL: 207(d)~~
- ~~• Assisting foreign entities: 207(f)~~
- Sharing in representational fees: 18 USC 203
- Working as a registered lobbyist: Pledge par. 5

Help them understand Paragraph 5

but

Don't give definitive advice about LDA
registration and reporting obligations

If the **employer** is not registered . . .

the **employee** is not listed as lobbyist

No registration—No lobbyist listed

Criteria for Employer Registration:

1. Employ at least **one lobbyist**
2. Expect to meet **quarterly monetary threshold**:
 - lobbying firm--\$2,500 lobbying income from client
 - organization lobbying for self--\$10,000 lobbying expenses

2 USC 1603(a)

Lobbying Disclosure

Office of the Clerk, United States House of Representatives

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Search Past Filings

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Search Field	Criteria	Search Field	Criteria
Registrant Name <input type="text"/>	Patton Boggs	Search Field <input type="text"/>	
Search Field <input type="text"/>		Search Field <input type="text"/>	
Search Field <input type="text"/>		Search Field <input type="text"/>	

Filing Type to search: Paper Electronic All

Sort
Primary Sort Secondary Sort

Download Format: XML CSV

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*** Query returned more than 5000 records. Sort not applied ***

House ID	Registrant Name	Client Name	Filing Year	Lobbyist Full Name
319170442	PATTON BOGGS LLP	JEROME STEVENS PHARMACEUTICALS	2001	<input type="text" value="KRACOV, DANIEL"/>
319170047	PATTON BOGGS LLP	GREAT AMERICAN LINES, INC.	2001	<input type="text" value="BOGGS, THOMAS H."/>
319170119	PATTON BOGGS LLP	UST, INC.	2001	<input type="text" value="SAMOLIS, FRANK R."/>

Top Earning Lobbying Firm: Patton Boggs

Earnings: \$352,012,000—since 1998
\$39,980,000—2009

Revolving door: 86 former gov't officials

Source: opensecrets.org

What makes someone a lobbyist?

For each client (employer, if in-house):

1. Expect at least **two lobbying contacts**
2. Expect **20% time** for client in a quarter on lobbying activity (both contacts and behind the scenes)

2 USC 1602(10)

LDA: covers lobbying contact with either

- covered legislative, or
- covered executive

Par. 5: bans only executive branch contact

LDA vs. Pledge Paragraph 5

“Lobbying Contact”:

- **Communication** to covered official
- On behalf of lobbying **client**
- Re: **broad** range of subjects
 - Legislation
 - Govt program/policy/position (e.g., rules, contracts)
 - PAS nomination/confirmation

2 USC 1602(8)(A)

But 19 Categories of Exceptions!

Exceptions include:

- Routine administrative requests
- Responses to Federal Register
- Communications required by gov't contract
- Communications re: court case or investigation

2 USC 1602(8)(B)

- *President*
- *VP*
- *EOP employees*
- *Executive Schedule officials*
- *Non-career SES (from EO, not LDA)*
- *Schedule Cs*
- *Uniformed officers at 0-7 and above*

Off-limits under Paragraph 5

- Paragraph 4: Former Agency
- Paragraph 5: **Executive Branch**

All LDA Registration is

Client-Specific

Paragraph 5 Restriction also is

Client-Specific

If not registered for that client . . .

then not acting as a registered lobbyist

Maybe . . .

- the firm doesn't meet the lobbying income threshold for XYZ (\$2500 per quarter)
- or
- Joan isn't a "lobbyist" for XYZ: <20% of her time for XYZ spent on lobbying activity
- or
- Joan isn't a "lobbyist" for XYZ: <2 lobbying contacts expected for XYZ

“The term ‘lobbyist’ means any individual who is employed or retained by a client for financial or other compensation . . .”

2 USC 1602(10)

Under the LDA & Pledge Par. 5

There's no such thing

as a

free lobbyist!