

**HINMAN  
STRAUB**

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Martin Levine, Director of Lobbying and FDS Compliance and Senior Counsel  
Joint Commission on Public Ethics  
540 Broadway  
Albany NY 12207

Dear Mr. Levine:

I write to express support for the conclusions reached in Advisory Opinion No. 15-0X, regarding the applicability of the Lobbying Act to the activities of consultants when connected with direct and grassroots lobbying.

With respect to persons who make preliminary contact with public officials in order to facilitate lobbying activity -- consultants who connect clients with public officials -- such persons should be required to register as lobbyists with JCOPE and report their lobbying activities. We agree with the reasoning of the draft Advisory Opinion that "*but for the access* to the public official, the ensuing advocacy could not take place." (Emphasis in original)

In short, the Lobbying Act should be applied to persons who provide access to public officials the client is interested in the passage or defeat of legislation or enactment or adoption of a rule or regulation so that the public can learn who is providing an entity with access to such officials.

We also agree with the finding of the proposed Advisory Opinion that technical experts who participate in meeting with public officials who do not have any role in the overall strategy, planning, messaging, or other substantive aspect of such meeting should not be subject to the Lobbying Act.

With respect to grassroots lobbying, we support the issuance of clear guidance for persons relating to when persons who participate in grassroots lobbying campaigns, and the guidance that is set forth in the proposed Advisory Opinion. Corning Place Communications, Hinman Straub's strategic communications and public affairs arm, has long abided by these standards, and we believe that other entities that are engaged in grassroots lobbying should do so as well.

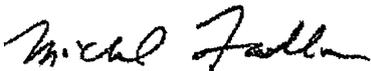
Finally, we do have some concerns about the means that the Commission has chosen to use to advance this guidance related to access lobbying and grassroots lobbying.

Generally, prior state ethics and lobbying regulators have issued formal Advisory Opinions in response to specific questions posed by members of the regulated community. These opinions were typically based on a specific set of facts and circumstances. And while they were helpful to other members of the regulated community in terms of understanding the issues and the regulator's perspectives on them, they were binding only upon the issuing entity and the individual or entity that requested the opinion.

In order to ensure that JCOPE's guidance related to access lobbying and grassroots lobbying is understood to be generally applicable, we urge you to consider issuing such guidance through some other means, such as a formal guidance document.

Thank you for the opportunity to comment on this proposed Advisory Opinion.

Regards,

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive, slightly slanted style.

Michael Fallon