

K STREET INSIDERS

This series of weekly columns by the biggest names on K Street unpacks the most important issues facing the lobbying business and the people in it.

Whether a lobbyist should be a 'lobbyist'

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“To register or not to register?” That is increasingly becoming a question I hear in K Street lobbying circles.

Recently, I've had several colleagues ask me if they should be registered lobbyists. What makes this particular interesting is that those who are asking are — like me — registered lobbyists themselves.

The question is being asked because new restrictions implemented by the Obama administration have made it more difficult to be a K Streeter.

For one, the administration has banned lobbyists from serving on certain government boards and committees. While I support lobbying reform and full transparency in the lobbying community, I find this new rule particularly challenging.

I had the privilege of serving under President George H.W. Bush on the Board for International Broadcasting, which oversaw Radio Free Europe/Radio Liberty. I was later appointed by President Bill Clinton to serve as chairman. I served in both capacities while also serving as a lobbyist for an insur-

ance trade association. When I was in Congress, my subcommittee had oversight of all of these broadcasters. I believed then and I believe now that my years as a congressman allowed me to provide foreign relations and communications expertise that helped those entities grow and prosper and promote democracy abroad. My lobbying work was unrelated, and there was no conflict in my board responsibilities.

It seems to me that this current ban deprives the government of a strong resource. There are many on K Street who want to continue serving and have deep expertise they want to share, which does not conflict with their lobbying roles.

Other restrictions are also now in place, and they, too, are challenging. Anyone who has been a registered lobbyist in the last two years cannot come into the administration to serve. In addition, if an individual leaves the White House, he or she cannot lobby the administration for the duration of the Obama presidency.

All of this leads back to the question of registration. Does it pay to be “registered” when it means being so restricted? That is the dilemma. And for some there's no dilemma at all. The decision has already been made.

According to one estimate provided to me, since 2008, there have been about 3,000 individuals who have deregis-

tered as lobbyists. Since just April of 2009, nearly 1,700 of those individuals have deregistered.

Rather than choosing to “lobby,” K Street veterans are choosing to “advocate.” And here is the key nuance. Under the rules, a lobbyist is defined as someone who communicates directly with Capitol Hill or certain parts of the administration and spends more than 20 percent of his/her time in a calendar quarter on lobbying activities.

Those who manage to fall below the 20 percent threshold are able to be “advocates.” They can provide strategy and

this issue. Attempts to comply with the law are examined.

It used to be that the CEO of an association or firm would register as a lobbyist — under the old rules — even if he/she did not do much lobbying. To members/clients, the “lobbyist” label was important; it had a certain cachet. I expect this view will become less common as time goes on and if current rules stay in place.

The bottom line is that the lobbying world has gotten more complicated, and deregistering is a serious consideration for some.

So what is my answer to my colleagues?

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counsel to clients and lobby on a limited basis. As a result, they are still able to serve in the administration or on advisory panels or lobby after being in the administration.

The 20 percent threshold is not to be taken lightly, says Jan Baran, a Washington authority on this subject who has worked with groups such as ours. He points out Congress has required the Government Accountability Office (GAO) to conduct random audits on

First, decidewhat is in the ultimate best interests of your trade association members or lobbying clients. Second, use caution. Do not

play fast and loose with the rules. If there is any doubt that you will be able to stay under the 20 percent threshold, better to be registered and fully compliant with the law. A lobbyist has that responsibility, as does any advocate.

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