

## CIVIL PENALTY REFERRAL

**Lobbyist:** Powers Crane & Company, LLC

**Client:** New York State Laborer's Political Action Committee ("Laborer's PAC")

**Alleged Violation:**

Filing of a false 2003 July/August Lobbyist Bimonthly Report pursuant to §1-o, Laws of 2005.

**Maximum Penalty Pursuant to Statute:** Up to \$50,000.

**Basis for Referral:**

In 2003, Laborer's PAC was a registered client of the lobbying firm Powers Crane & Company LLC. Upon information and belief, set forth in the affidavit of Matthew Powers, formerly of Powers Crane & Company LLC, and further corroborated in interviews with William Powers, formerly of Powers Crane & Company LLC, and Noreen Pettalino, who worked for James B. Crane, II, Mr. Crane is fully responsible for the invoicing and accounts payable and receivable for the lobbyist in 2003.

The invoice to Laborer's PAC dated July 1, 2003 (Exhibit 1), includes a \$500 itemized expense to "attend" a Senator Balboni event in New York, New York on June 30, 2003, but this expense is not reported on any of the contemporary or possibly applicable bimonthly reports filed by the lobbyist (Exhibit 2) or in the same filed by the client (Exhibit 3).

Similarly, this July 1, 2003 invoice includes a \$500 expense to "attend" an Assemblyman Gianaris event in New York, New York, on July 10, 2003, which does not appear on contemporary filings of the lobbyist or the client with the Commission.

In addition, this July 1, 2003 invoice includes a \$500 expense to "attend" a Senator Spano event in New York, New York, on June 25, 2003, but this expense is not reported in any contemporary filing with the Lobbying Commission by either the client or the lobbyist.

Commission staff reviewed electronic filings maintained by the NYS Board of Elections relating to political donations to the public officials named in the invoices referenced above.

It is critical to note in this regard, that section 14-120(1) of the Election Law provides that “[n]o person shall in any name except his own, directly or indirectly, make a payment or promise of payment to a candidate or political committee or to any officer or member thereof, or to any person acting under its authority or in its behalf or on behalf of any candidate, nor shall any such committee or any such person or candidate knowingly receive a payment or promise of a payment, or enter or cause the same to be entered in the accounts or records of such committee, in any name other than that of the person or persons to whom it is made.”

In addition, pursuant to subdivision (g) §1-c of the Lobbying Act, the term “expense” therein shall mean any expenditure incurred by or reimbursed to the lobbyist for lobbying, but does not include contributions reportable pursuant to article 14 of the Election Law.

None of the campaign committees for Balboni, Gianaris and Spano reported receiving a contribution from either Laborer’s PAC or Powers Crane & Company LLC at the times involved and which would correspond to the invoiced amounts described above. It is patent that moneys were billed by the lobbying firm to its client without being reported on the bimonthly reports and, further, there does not appear to be any basis to exclude the same from the required reports.

However, Commission staff learned from the NYS Board of Elections Database that James B. Crane, II, personally contributed \$2,500 donation to Friends of Balboni on July 21, 2003, \$10,000 to New Yorkers for Gianaris on July 8, 2003, and \$2,000 to friends of Nick Spano Committee on June 23, 2003 (Exhibit 4).

If Mr. Crane, personally, merely made campaign contributions to Friends of Balboni, New Yorkers for Gianaris and/or Friends of Nick Spano, then these would not be reportable expenses pursuant to the Lobbying Act. However, these invoices serve as evidence that the lobbying firm billed clients in relation to such contributions, and these billings were nowhere disclosed to the Commission.

If Mr. Crane’s personal campaign contributions in whole or in part were directly billed to clients of the lobbyist, then such billing was nothing more than additional compensation to the lobbyist from the client, which is a reportable event under the Lobbying Act. As discussed, these billings were not reported.

Therefore for all of the foregoing reasons, the Commission has a basis to refer Powers Crane & Company LLC for the false filing of the 2003 July/August Lobbyist Bimonthly Report on behalf of Laborer's PAC.

**Recommendation:**

Staff recommends the Commission approve this referral for notice of intent to assess a civil penalty in connection to the false filing of the 2003 July/August Lobbyist Bimonthly Report for client Laborer's PAC, to be heard at the Public Integrity Commission's next scheduled hearing date for lobbying violations.