

New York State Joint Commission on Public Ethics

# Reform Q

The proposal would amend section 1-o of the Legislative Law to permit the Commission to consider past Lobbying Act violations by an organization associated with an individual, when assessing penalties against that individual for subsequent violations of the Act. The amendment would also clarify that both the lobbying organization and the individual that engages in the proscribed act in the name of the organization can be held liable. These changes ensure that a record of violations follows the party responsible for those acts.

Subdivision (c) of section 1-o of article 1-a of the legislative law is amended to read as follows:

(c) (i) Any assessment or order to debar shall be determined only after a hearing at which the party shall be entitled to appear, present evidence and be heard. Any assessment or order to debar pursuant to this section may only be imposed after the commission sends by certified and first-class mail written notice of intent to assess a penalty or order to debar and the basis for the penalty or order to debar. Any assessment may be recovered in an action brought by the attorney general.

(ii) In assessing any fine or penalty pursuant to this section, the commission shall consider:

(A) as a mitigating factor that the lobbyist, public corporation or client has not previously been required to register, and

(B)(i) as an aggravating factor that the lobbyist, public corporation or client has had fines or penalties assessed against it in the past. The amount of compensation expended, incurred or received shall be a factor to consider in determining a proportionate penalty.

**(ii) For the purposes of this section, where the lobbyist is an individual, past penalties shall include any penalties levied against such individual or levied against any organization of which such individual is a member, partner, director, officer, employee, agent or consultant, or levied against any subsidiary, affiliate, related or successor organization with substantially similar function, management, board of directors, officers or shareholders to the organization of which such individual is so associated where such individual knowingly and intentionally engaged in acts that constituted or contributed to such violation.**

(iii) Any lobbyist, public corporation or client who receives a notice of intent to assess a penalty for knowingly and wilfully failing to file a report or statement pursuant to subdivision (b) of this section and who has never previously received a notice of intent to assess a penalty for failing to file a report or statement required under this section shall be granted fifteen days within which to file the statement of registration or report without being subject to the fine or penalty set forth in subdivision (b) of this section. Upon the failure of such lobbyist, public corporation or client to file within such fifteen day period, such lobbyist, public corporation or client shall be subject to a fine or penalty pursuant to subdivision (b) of this section.

**(d) Where the lobbyist or client is an organization, both the organization and the individual who performs or causes to be performed in the name of the organization the conduct amounting to a knowing and willful violation of Legislative Law Article 1-A, shall be subject to the penalties described in this section.**

~~(e)~~(f) All moneys recovered by the attorney general or received by the commission from the assessment of civil penalties authorized by this section shall be deposited to the general fund.