

**NEW YORK
TEMPORARY STATE COMMISSION
ON LOBBYING**

OPINION NO. 42 (00-1)

FACTS

A New York coalition, presently involved in some form of lobbying activity in New York, has requested an opinion of the Commission regarding the necessity of their registering as a client and/or lobbyist under the New York State Lobbying Act if they should meet the expense/compensation threshold (\$2,000) which would otherwise require such registration.

ISSUE

Are coalitions required to file as client and/or lobbyist in New York if they meet the expense/compensation threshold of the Statute? Are coalitions subject to the New York Lobbying Act generally?

DISCUSSION AND HOLDING

The term "coalition" is not defined in the New York State Lobbying Act. However, Section 1-c(d) defines the term "organization" to include associations. The General Association Law of the State of New York includes "unincorporated associations" under its provisions. It is the holding of this Commission that coalitions, as that term is used in lobbying, would fall under the definition of an "unincorporated association" as that term is used in the General Association Law and its case commentaries.

An unincorporated association i.e. coalition is not a legal entity (see *League of Mutual Taxi Owners v. United Construction Workers, Local 35*, 1949, 90 N.Y.S. 2d 288.). Therefore it can only act or be sued or otherwise respond legally through its president, treasurer, or person within the organization who appears to represent the group (see *Fairfield Lease Corp. v. Empire Emp. Sunshine Club*, 1973, 74 Misc.2d 328, 345 N.Y.S. 2d 305.) and (*McGuire v. Morris*, 1936, 158 Misc. 466, 286 N.Y.S. 410 aff'd. 247 AD 770, 286 N.Y.S. 411.) and (*Irwin v. Possehl*, 1932, 145 Misc. 907, 261 N.Y.S. 164.).

Under this reasoning a coalition would be required to register as a client, listing its lobbyists, with proper officer or other responsible representative authorized to execute all required filings. If there is no appropriate person and the coalition cannot or does not designate such person for lobbying registration purposes, then and in that event the known members of the coalition would be required to file individually as clients if they expend the statutory amount in their lobbying efforts conducted through the coalition or, if they are already registered, they must amend their filings to include their costs and expenses with this coalition on their personal registrations and/or filings if not shown previously on those individual documents.

New York State Law, as evidenced by the title of Article 3 of the General Association Law, "Action or Proceedings By or Against Unincorporated Associations," recognized the existence of these entities, even though they otherwise have no legal status.

Consequently, the New York Temporary State Commission on Lobbying recognizes the existence of unincorporated associations in the form of coalitions. In so doing, it is the holding of the Commission that these entities must register and otherwise comply with the New York State Lobbying Act if they engage in activities which are within the purview of that Act. Additionally, they must identify a responsible party or parties (i.e. president, treasurer, or named agent). Otherwise, members of a coalition may be required to file separately.

APPROVED BY COMMISSION: FEBRUARY 18, 2000

CONCURRING: JOSEPH A. DUNN, CHAIR; ALBERT S. CALLAN, BARTLEY F. LIVOLSI, MILTON MOLLEN, AND STEWART C. WAGNER.

/S/

JOSEPH A. DUNN
Chairman