



P.O. Box 821, Stn. B, Ottawa K1P 5P9  
Tel: 613-241-5179 Fax: 613-241-4758  
Email: info@democracywatch.ca Internet: http://democracywatch.ca

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## **Backgrounder on Ontario Integrity Commissioner's Rulings on Lobbyists in 2018-2019, 2019-2020 and 2020-2021 Fiscal Years** (November 2021)

### **A. Summary of 2018-2019, 2019-2020 and 2020-2021 Lobbyist Rulings by Ontario's Integrity Commissioner**

Ontario Integrity Commissioner J. David Wake issued the rulings set out below on lobbyists under the *Lobbyists Registration Act (LR Act)* in his Annual Reports for the 2018-2019, 2019-2020 and 2020-2021 fiscal years.

Over these three fiscal years, Commissioner Wake reviewed 1,125 situations in secret but only fully investigated and issued a public ruling on 81 of these 1,125 situations (7%) through this three-year period. A total of 755 Compliance Reviews were stopped or resolved with secret decisions. And he issued 281 secret Advisory Opinions. (**See details** in NOTE further below).

Therefore, in total, Commissioner Wake issued 1,036 secret rulings/opinions during this three-year period.

Commissioner Wake doesn't even issue public summaries of these 1,036 decisions/opinions, even though they are all rulings under the *LR Act* and he is allowed by the *Act* to issue summaries. The public has a right to see summaries of every decision the Integrity Commissioner makes, and needs to see them to ensure he is enforcing the law properly.

Over these three fiscal years, Commissioner Wake found only 33 lobbyists violating the *LR Act*, mainly because of his legally incorrect interpretations of major rules in the Act concerning registering and, especially, ethical lobbying (**See details** below).

Commissioner Wake only penalized 5 of the 33 lobbyists (15%) whom he found violating the law, and only by publicizing their names instead of banning them from lobbying (the Commissioner can penalize a lobbyist who violates the law by

publicly naming them and/or banning them from lobbying for up to two years (under [section 17.9](#) of *LR Act*).

If the Integrity Commissioner lets a lobbyist off for a violation, the Integrity Commissioner cannot name the lobbyist publicly. As a result, by failing to penalize the 28 lobbyists he found violated the law over the past three years, Commissioner Wake is hiding the identities of all 28 of those lobbyists.

As well, 15 lobbyists were investigated and then let off by Commissioner Wake because of loopholes in the *LR Act* that allow for secret, unethical lobbying. Finally, 10 investigations were closed due to lack of evidence of any violation or errors.

Two of Commissioner Wake's most negligently bad public decisions were, first, when he issued a guidance document on the rule added in July 2016 to the *LR Act* ([section 3.4](#)) that prohibits lobbying any politician or other public office holder if it will create a real or potential conflict of interest. He waited almost two years to issue the 2018 [Guidance for Lobbyists on Political Activity document](#), which was negligent enough, but then even worse the *Guidance* document was very vague, especially concerning the key issue of the time period lobbyists must stop lobbying after assisting an election candidate or politician.

Secondly, in June 2020, Commissioner Wake issued an equally [negligently bad Interpretation Bulletin](#). The *Bulletin* says that when a lobbyist assists a politician with fundraising or campaigning or [gives them a gift](#), the conflict of interest created by the assistance or gift magically disappears after one year, so the lobbyist can lobby the politician and their staff after that year. This *Bulletin* essentially ignores all commissioner and court rulings across Canada that all say that the conflict of interest created by the lobbyist's assistance or gift lasts at least until the next election. (See for details [Backgrounder on Conflict of Interest Rule](#))

Given Commissioner Wake's negligently weak public enforcement record in 2018-2019, 2019-2020 and 2020-2021, and the Commissioner's bad *Bulletin* and *Guidance* document on conflicts of interest in lobbying, it should be assumed that some (and possibly many) of his 755 Compliance Reviews that were closed or resolved through a secret informal process, and some (and possibly many) of his 281 secret Advisory Opinions (1,036 secret rulings in total), also let off lobbyists even though they violated the *LR Act* either by lobbying in secret, or lobbying unethically.

## B. 2018-2019 Fiscal Year Rulings on Lobbyists

### (i) Summary of Commissioner's 2018-2019 Rulings on Lobbyists

In the 2018-2019 fiscal year, Integrity Commissioner Wake:

- undertook 383 Compliance Reviews, closing 80 of those reviews secretly at the initial stage, and resolving 269 reviews through a secret informal process, while only fully investigating 34 situations (see [pages 50-51](#) of his *Annual Report*);
- issued 108 secret Advisory Opinions (see [page 47](#) of his *Annual Report*).
- found 5 lobbyists violating the *LR Act*;
- penalized 3 of the 5 lobbyists, and only by naming them publicly;
- let off another 10 lobbyists because of loopholes in the *LR Act* that allow for secret, unethical lobbying
- let off another 2 lobbyists because of errors with registering, and;
- closed 6 investigations due to lack of evidence of any violation.

**NOTE:** Given Commissioner Wake's negligently weak enforcement record in 2018-2019, it should be assumed that some of his Compliance Reviews that were closed/resolved through a secret informal process, and some of his secret Advisory Opinions, also let off lobbyists even though they violated the *LR Act*.

Unfortunately, Commissioner Wake keeps all of those closed/resolved Compliance Reviews and Advisory Opinions secret, and doesn't even issue summaries of these decisions/opinions, even though they are all rulings under the *LR Act* and he is allowed to issue public summaries of them. He should at least issue a summary of each of his rulings and opinions, the public needs to see them in order to ensure he is enforcing the law properly and fairly.

### (ii) Details of Integrity Commissioner Rulings on Lobbyists in 2018-2019

**NOTE (a):** Commissioner Wake would claim that he didn't actually issue rulings about the following two lobbyists, as he would likely say that all he did was give them an "advisory opinion." However, it was a ruling, and the ruling was based on the negligently bad decision noted above in section A that Commissioner Wake [made in 2018](#) (and then [updated in June 2020](#)) to allow people who assisted politicians on campaigns or with fundraising, or gave them gifts, to lobby them only one year later:

- i. [Chris Froggatt](#) ([click here](#) to search his Lobbying Registry report), who was vice-chair of Doug Ford's and the PC Party's 2018 election campaign, for more than a year has headed up the lobbying firm [Loyalist Public Affairs](#) (which he co-founded), [told the Globe and Mail in July 2019](#) that he was advised by the Integrity Commissioner to refrain from lobbying for only one year after the Ford government took power.

**NOTE:** Loyalist Public Affairs also employs three people who worked on the Ford PC Party's 2018 election campaign: [Dan Mader](#) (co-founder of the firm – [click here](#) to search his Registry report); [Zahra Sultani](#) (who also

worked for Ford Cabinet minister Rod Phillips – [click here](#) to search her Registry report), and; [Nikita Drakokhurst](#) (who also worked for two Ford Cabinet ministers), and also [Jared Burke](#) who worked for PC MPP Natalia Kusendova from July 2018-April 2019 ([click here](#) to search his Registry report).

- ii. And in that same *Globe* article Kory Teneycke ([click here](#) to search his Lobbying Registry report), who was manager of the Ontario PC's 2018 election campaign, and for more than a year has headed up the lobbying firm [Rubicon Strategy](#) (which he co-founded), was paraphrased as saying the Integrity Commissioner had advised him not to lobby the Premier, his office or the Cabinet office for a year.

**NOTE:** [Rubicon Strategy](#) also employs four people who formerly served as Chief of Staff for one or more Ford Cabinet ministers: Jan O'Driscoll; Sarah Letersky ([click here](#) to search her Lobbying Registry report); Stephanie Delorme, and; Christine Simundson ([click here](#) to search her Registry report); and two people who worked on PC Party's 2018 election campaign: Emrys Graefe and Cole Hogan (Ms. Letersky, Ms. Delorme and Ms. Simundson also worked on the PC's 2018 election campaign). Also, firm managing partner Patrick Harris is [4<sup>th</sup> Vice President of the PC Party](#) ([click here](#) to search his Registry report). As well, firm partner [Michael Coates served on Premier Ford's transition team](#) in June 2018 ([click here](#) to search his Registry report).

Integrity Commissioner Wake made the negligently bad decisions to allow Chris Froggatt and Kory Teneycke to set up their lobbying firms right after the 2018 election and then, after one year, in 2019 begin to lobby Ford's government themselves, even though they [continued to serve as senior advisers](#) to Premier Ford and the PC Party.

**NOTE (b):** Given they are actively lobbying the Ford Cabinet, Commissioner Wake has also clearly given the same clearly legally incorrect, unethical advice to [other people who worked on Ford's PC Party leadership campaign and/or the PC Party's spring 2018 election campaign](#) that they can lobby the government after only a one year cooling-off period, including:

- i. [Michael Diamond](#) ([click here](#) to search his Lobbying Registry report) of [Upstream Strategy Group](#) (which also employs [Bradley Metlin](#) who was [Press Secretary to Ford's Minister of Labour](#) from July 2019 to October 2020 – [click here](#) to search his Registry report);
- ii. [Melissa Lantsman](#) ([click here](#) to search her Lobbying Registry report) who became a VP of lobbying firm Hill and Knowlton in June 2018 until January 2020 when she joined [Enterprise Canada](#) (and who also continues to serve as a Vice-President of the PC Party of Ontario).  
NOTE: Democracy Watch filed [a complaint in July 2019](#) about Melissa Lantsman for lobbying the Ford government after [advising Doug Ford](#) and [the Progressive Conservative Party \(PC Party\)](#) during the spring 2018 provincial election campaign, serving on Ford's transition team, and then serving as [Regional Vice President for Toronto for the PC Party](#). Ms. Lantsman remains active on Ford's [Leaders' Advisory Council on Election Readiness](#). Given Commissioner Wake issues vague summary rulings

- that don't name lobbyists he has investigated unless he penalizes them (which he rarely does), it is difficult to tell whether Commissioner Wake has even investigated Democracy Watch's complaint about Ms. Lantsman's ongoing lobbying and PC Party advising.
- iii. [Melanie Paradis](#) who worked for [McMillan Vantage](#) lobbying firm from [June 2018 to September 2020](#) (and who also continues to be a [2nd Vice-President](#) of the Ontario PC Party)
  - iv. [Frank Klees](#) of [Klees & Associates](#).

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To see PDF excerpt of numbered investigation rulings from the Commissioner's *2018-2019 Annual Report*, [click here](#). To see the section on lobbying in the *Annual Report* PDF (pages 50-58), [click here](#).

1. **Ruling #1:** Lobbyist not penalized, even though she violated law by not registering lobbying for 74 days after deadline, because it was her first violation and Commissioner felt her violation didn't last very long.
2. **Ruling #2:** Lobbyist let off because he made registration errors – may have violated law by failing to register for several months but difficult to prove.
3. **Ruling #3:** Investigation ceased due to lack of evidence of any violation.
4. **Ruling #4:** Lobbyist let off because of loophole in definition of "lobbying" in the *LR Act*.
5. **Ruling #5:** Lobbyist let off because Commissioner decided his office was at fault for lobbyist not completing registration, even though lobbyist failed to respond to Commissioner's office for several months.
6. **Ruling #6:** Lobbyist let off because of loopholes in definition of "lobbying" in the *LR Act*.
7. **Ruling #7:** Lobbyist let off because of loophole in definition of "lobbying" in the *LR Act*, and because Commissioner decided violation was for a short enough time period to let the lobbyist off.
8. **Ruling #8:** Investigation ceased due to lack of evidence of any violation.
9. **Ruling #9:** Investigation ceased due to lack of evidence of any violation.
10. **Ruling #10:** Investigation ceased due to lack of evidence of any violation.
11. **Ruling #11:** Lobbyist found guilty of violating law for 274 days, but only penalty was she was publicly named ([Amara Possian](#)).
12. **Ruling #12:** Lobbyist let off because of loophole in definition of "lobbying" in the *LR Act*.
13. **Ruling #13:** Investigation ceased due to lack of evidence of any violation.
14. **Ruling #14:** Lobbyist found guilty of violating law for 687 days, but only penalty was he was publicly named ([Marc Kealey](#)).
15. **Ruling #15:** Lobbyist found guilty of violating law for 822 days, but only penalty was he was publicly named ([Michael McCarthy](#)).
16. **Ruling #16:** Lobbyist not penalized, even though they lobbied illegally without registering, because violation was short-term.

17. **Ruling #17:** Two lobbyists let off because of loophole in definition of “lobbying” in the *LR Act*.
18. **Ruling #18:** Investigation ceased due to lack of evidence of any violation.
19. **Ruling #19:** Organization that lobbies let off because of loophole in the *LR Act* allows organizational staff to give tickets to politicians/officials.
20. **Ruling #20:** Organization that lobbies let off because of loophole in definition of “lobbying” in the *LR Act*.
21. **Ruling #21:** Investigation ceased due to lack of evidence of any violation.
22. **Ruling #22:** Organization that lobbies let off because of loophole in definition of “lobbying” in the *LR Act*.
23. **Ruling #23:** Organization that lobbies let off because of loophole in definition of “lobbying” in the *LR Act*.

## C. 2019-2020 Fiscal Year Rulings on Lobbyists

### (i) Summary of Commissioner’s 2019-2020 Rulings on Lobbyists

In the 2019-2020 fiscal year, Integrity Commissioner Wake:

- undertook 251 secret Compliance Reviews, closing 55 of those reviews at the initial stage, and resolving 167 reviews through an informal process, while only fully investigating 29 situations (see [pages 49-50](#) of his Annual Report);
- issued 84 secret Advisory Opinions (see [page 45](#) of his Annual Report);
- found 22 lobbyists violating the *LR Act*;
- but only penalized one of the 22 lobbyists, and only by naming him publicly;
- let off 5 other lobbyists even though they violated the law by failing to register and disclose their lobbying for on average one year (the same length of time as the one lobbyist who was penalized by being named publicly);
- let off another 7 lobbyists who campaigned or fundraised for a politician or gave them a gift, and then lobbied the politician a short time afterwards;
- let off another 3 lobbyists because of loopholes in the *LR Act* that allow for secret, unethical lobbying, and;
- closed 4 investigations due to lack of evidence of any violation.

**NOTE:** Given Commissioner Wake’s negligently weak enforcement record in 2019-2020, it should be assumed that some of the Compliance Reviews that were closed or resolved through an informal process, and some of the Advisory Opinions, also let off lobbyists even though they violated the *LR Act*.

Unfortunately, Commissioner Wake keeps all of those closed/resolved Compliance Reviews and Advisory Opinions secret, even though they are all rulings under the *LR Act* and he is allowed to issue summaries. He should at

least issue a summary of each of his rulings and opinions, the public needs to see them in order to ensure he is enforcing the law properly and fairly.

## (ii) Details of Integrity Commissioner Rulings on Lobbyists in 2019-2020

To see PDF excerpt of numbered investigation rulings from the Commissioner's *2019-2020 Annual Report*, [click here](#). To see the section on lobbying in the *Annual Report* PDF (pages 50-56), [click here](#).

1. **Ruling #1:** Lobbyist found guilty of illegally lobbying for 395 days without registering, but only penalty was he was publicly named ([Lawrence Gold](#)) – the only lobbyist penalized in 2019-2020.
2. **Ruling #2:** Lobbyist let off because of loophole in definition of “lobbying” in the *LR Act*.
3. **Ruling #3:** Lobbyist not penalized, even though he lobbied illegally without registering, because Commissioner decided violation was unintentional.
4. **Ruling #4:** Lobbyist not penalized, even though he illegally lobbied for 214 days without registering, because he cooperated with the Commissioner.
5. **Ruling #5:** Lobbyist not penalized, even though she illegally lobbied for years without registering, because she cooperated with the Commissioner.
6. **Ruling #6:** Lobbyist not penalized, even though she violated law by working on campaign and then lobbying politician afterwards, because she didn't lobby very much.
7. **Ruling #7:** Lobbyist not penalized, even though he violated law by working on two campaigns and then lobbying both politicians one year later, because Commissioner's negligent [Bulletin](#) allows lobbying one year after assisting a politician.
8. **Ruling #8:** Lobbyist not penalized, even though he lobbied illegally without registering, because Commissioner decided violation was short-term and lobbyist cooperated with Commissioner.
9. **Ruling #9:** Investigation ceased due to lack of evidence of any violation.
10. **Ruling #10:** Three lobbyists not penalized, even though they violated the law by organizing and selling tickets for a political party fundraising event while lobbying politicians who benefited from the event, because Commissioner believed lobbyists' claim that they didn't play a main role in organizing the event, and because Commissioner doesn't believe such fundraising causes a conflict of interest.

NOTE: It is difficult to tell given Commissioner Wake let them off and only issued a vague summary of his ruling, but likely this ruling was issued in response to the [complaint filed in June 2019](#) by Democracy Watch with the Commissioner about lobbyists Chris Benedetti, Paul Pellegrini and Matthew Gibson of [Sussex Strategy Group](#) violating the law by being on the organizing committee for Premier Ford's February “2019 Toronto Leader's Dinner” fundraising event.

11. **Ruling #11:** Lobbyist not penalized even though advises politicians and also advises clients who lobby the Ontario government because Commissioner found he didn't lobby for his clients.
12. **Ruling #12:** Investigation ceased as person did not lobby.
13. **Ruling #13:** Lobbyist not penalized, even though he violated law by working on campaign and then lobbying politician afterwards, because he stopped lobbying when the Commissioner began investigating him.
14. **Ruling #14:** Lobbyist not penalized, even though she illegally lobbied for years without registering, because Commissioner found violation was "inadvertent" and she cooperated with the Commissioner.
15. **Ruling #15:** Two lobbyists not penalized, even though they violated the law by failing to disclose full information in their lobbying registration, because Commissioner found violation was "inadvertent".
16. **Ruling #16:** Investigation ceased due to lack of evidence of any violation.
17. **Ruling #17:** Senior officer at organization not penalized, even though he violated law by failing to register staff as lobbyists for 300 days, because the senior officer took responsibility for the violation.
18. **Ruling #18:** Senior officer at organization not penalized for failing to register lobbying because of loophole in definition of "lobby" in the *LR Act*. Other person investigated was found not to be lobbying.
19. **Ruling #19:** Senior officer at organization not penalized for failing to register lobbying because of loophole in the *LR Act*.
20. **Ruling #20:** Senior officer at organization not penalized, even though lobbyists at organization violated the law by offering free tickets to an event to office holders they were lobbying, because organization stopped offering tickets and the senior officer left the organization.
21. **Ruling #21:** Senior officer at organization not penalized, even though he illegally failing to register four staff as lobbyists, because officer cooperated with Commissioner.
22. **Ruling #22:** Investigation ceased due to lack of evidence of any violation.
23. **Ruling #23:** Senior officer at organization not penalized, even though he illegally failing to register staff person as lobbyist for 400 days because officer cooperated with Commissioner and Commissioner found violation was "inadvertent".
24. **Ruling #24:** Senior officer at organization not penalized, even though he illegally failing to disclose public office holders lobbied during a lobby day, because officer cooperated with Commissioner and acknowledged the violation.

NOTE: As well, Integrity Commissioner Wake let off another two lobbyists who offered gifts to ministers or their staff whom they were lobbying (See "Invitation to a Special Event" on [page 16 of Annual Report](#), and "Ticket to Speaking Event" on [page 23 of Annual Report](#)).

## D. 2020-2021 Fiscal Year Rulings on Lobbyists

### (i) Summary of Commissioner's 2020-2021 Rulings on Lobbyists

In the 2020-2021 fiscal year, Integrity Commissioner Wake:

- undertook 210 Compliance Reviews, closing 62 of those reviews at the initial stage, and resolving 129 reviews through an informal process, while only completing full investigations of 18 situations (see [pages 50-55](#) of his *Annual Report*);
- issued 89 Advisory Opinions (see [page 50](#) of his *Annual Report*)
- issued 11 rulings (some rulings covered more than one investigation);
- found 6 lobbyists violating the *LR Act*,
- penalized only 1 of the 6 lobbyists, and only by naming them publicly;
- let off 3 other lobbyists by making a legally incorrect ruling that they had not violated the law;
- let off 2 other lobbyists because of loopholes in the *LR Act* that allow for secret, unethical lobbying
- let off another lobbyist because of errors with registering, and;
- closed 7 investigations, presumably due to lack of evidence of any violation (his *Annual Report* does not specify why).

**NOTE:** Given Commissioner Wake's negligently weak enforcement record in 2018-2019, it should be assumed that some of his Compliance Reviews that were closed/resolved through a secret informal process, and some of his secret Advisory Opinions, also let off lobbyists even though they violated the *LR Act*.

Unfortunately, Commissioner Wake keeps all of those closed/resolved Compliance Reviews and Advisory Opinions secret, and doesn't even issue summaries of these decisions/opinions, even though they are all rulings under the *LR Act* and he is allowed to issue summaries. He should at least issue a summary of each of his rulings and opinions, the public needs to see them in order to ensure he is enforcing the law properly and fairly.

### (ii) Details of Integrity Commissioner Rulings on Lobbyists in 2020-2021

To see PDF excerpt of numbered investigation rulings from the Commissioner's *2020-2021 Annual Report*, [click here](#). To see the section on lobbying in the *Annual Report* PDF (pages 50-55), [click here](#).

- Ruling #1:** Conflict of interest – lobbyist directed colleagues at his firm to offer free tickets to an event to office holders he was lobbying. Commissioner let lobbyist off because he accepted responsibility for his actions and cooperated with investigation.
- Ruling #2:** Failure to terminate registration – lobbyist failed to terminate registration. Commissioner let lobbyist off because failure was inadvertent and lobbyist admitted violation and cooperated fully with investigation.
- Ruling #3:** Conflict of interest – lobbyist offered gifts to several public office holders but she was not lobbying them, and she registered to lobby former employer but had not lobbied him. "Commissioner advised her that

lobbyists should not offer gifts to any public officer holders. He also told her to remove the office of her previous employer from her registrations and to seek the Commissioner's advice through an Advisory Opinion if she plans to lobby that public office holder in the future, to ensure compliance with the Act."

- iv. **Ruling #4:** Failure to register – Commissioner penalized lobbyist for multiple failures to register only by publicizing his name (Amir Farahi). See ruling on Farahi at: <http://www.oico.on.ca/home/lobbyists-registration/compliance-penalties>
- v. **Ruling #5:** Failure to register and conflict of interest – Lobbyist was in position to influence office holder and providing advice on an unpaid basis to office holder. Commissioner let lobbyist off because he was not lobbying any public office holders.
- vi. **Ruling #6:** Conflict of interest – "The lobbyist held a senior role within a political party and registered to lobby a public office holder who was the leader of the same political party. The Commissioner found that the lobbyist had not placed the public office holder in a position of conflict because the investigation revealed that, in fact, the lobbyist's role within the party had not granted him direct or increased interactions with the public office holder. In addition, the lobbyist and the public office holder had no meaningful personal or professional relationship, which would have significantly increased the risk of a conflict. The Commissioner found that the lobbyist had not placed this public office holder in a position of conflict.  
And  
"In relation to the second public office holder, the Commissioner found that the lobbyist had worked on a political campaign for a candidate and maintained his relationship with the individual after the candidate became a public office holder. The lobbyist then proceeded to lobby the public office holder. The Commissioner found that the lobbyist failed to comply with the conflict of interest restriction in the Act. After considering the lobbyist's full and candid cooperation during the investigation, the fact that he did not have any previous incidents of non-compliance, and whether a penalty was a necessary deterrent to the lobbyist or to protect the public interest, the Commissioner decided not to impose a penalty in this matter."
- vii. **Ruling #7:** Failure to register – Commissioner found lobbyist was not a consultant lobbyist and so his lobbying fit within loophole that allows employees to lobby for up to 50 hours without registering.
- viii. **Ruling #8:** Conflict of interest – Lobbyist held senior strategic role in two political campaigns for person who became an elected office holder, then lobbied the office holder for several clients. Commissioner also found that lobbyist failed three times to update his registration to show whom he was lobbying, and also was 48 days late in registering for one client. Commissioner concluded: "The multiple breaches of the Act weighed in favour of imposing a penalty. However, the Commissioner considered the fact that the lobbyist did not have any previous incidents of non-compliance, had been fully cooperative during the investigation and that a penalty was not required to deter the lobbyist from being non-compliant in

- the future or protect the public interest. Therefore, the Commissioner decided not to impose a penalty.”
- ix. **Ruling #9:** Late to register – three consultant lobbyists failed to register their lobbying, but for relatively short periods of time, and they had no prior violations, and cooperated with the investigation, so no penalty.
  - x. **Ruling #10:** Conflict of interest – Company’s consultant lobbyists offered gifts of tickets to an event, not senior officer, so Commissioner found senior officer had not violated law. Commissioner investigated consultant lobbyists. NOTE: where is that ruling?
  - xi. **Ruling #11:** Failure to register – Organization’s lobbying fit within loophole that allows employees to lobby for up to 50 hours without registering.