



The District of Columbia Government
Board of Ethics and Government Accountability

Final Audit Report on Kerry Pearson

January 2016

Lobbyist Activity Report

July 1, 2015 through December 31, 2015

February 2017

Office of Government Ethics

BACKGROUND

D.C. Official Code § 1-1162.29(a) requires that lobbyists register on or before January 15th of each year, or within 15 days of lobbying within the District of Columbia. Kerry Pearson registered as a lobbyist with the Director of Government Ethics (“Director”), on January 10, 2016 with respect to reported lobbying activities that he engaged in during the month of October 2015. Mr. Pearson designated Pepco as his client on his 2015 Lobbyist Registration Form (“LRF”). Mr. Pearson also filed a January 2016 Lobbyist Activity Report (“LAR”) on January 11, 2016.

On February 18, 2016, the Director issued an audit notification letter to Mr. Pearson and requested records to substantiate information disclosed on his January 2016 LAR. The periodic audit of the statements and records of Mr. Pearson covered the period July 1, 2015 through December 31, 2015. Mr. Pearson provided the documentation required on March 4, 2016. In the 2016 January LAR, Mr. Pearson disclosed that he met with Councilmembers David Grosso, Jack Evans, Kenyan McDuffie, and Yvette Alexander on October 14, 2015 and that he met with Councilmembers Anita Bonds, Brianne Nadeau, Brandon Todd and LaRuby May on October 15, 2015. Based on Mr. Pearson’s disclosures that he performed lobbying activities as early as October 15, 2015, the Office of Government Ethics (“OGE”) determined that he was required to register as a lobbyist and file his 2015 LRF by October 29, 2015. Notwithstanding this requirement, Mr. Pearson filed his 2015 LRF on January 10, 2016, which would have been more than 30 days late.¹

OGE preliminarily determined that there were two deficiencies with regard to Mr. Pearson’s filings: (1) that he filed his 2015 Lobbyist Registration Form (“LRF”) late and (2) that he failed to describe his activities in his January 2016 Lobbyist Activity Report (“LAR”), which identifies lobbying activities from the preceding July 2015 through December 2015, with sufficient specificity. Mr. Pearson’s January 2016 LAR indicated he lobbied the District on behalf of Pepco Holdings, Inc. (“Pepco”) regarding “General Support for Merger,” and met with various Councilmembers to “engage for support.” The subject matters disclosed on his report were broad and the narrative regarding Mr. Pearson’s lobbying activities, i.e., the subject matter and formal designation thereof, were not described with sufficient specificity for OGE to determine whether the activities constituted lobbying within the meaning of the Ethics Act.

OGE communicated these preliminary findings to Mr. Pearson through the Statement of Findings (Draft Audit Report) it provided to him on October 17, 2016. OGE recommended that Mr. Pearson submit a response to the preliminary findings and provide further clarification as to the specific matter upon which he lobbied the Councilmembers on behalf of Pepco.

OGE received Mr. Pearson’s response on November 2, 2016. He explained that on December 14, 2015, he sent his LRF (paper copy) with the filing fee by FedEx priority overnight delivery to BEGA and on the following day, he received a telephone call from BEGA staff who informed him that all registration forms must be filed electronically. Based on this information, he filed his LRF and paid the required registration fee electronically. Mr. Pearson’s response did not

¹ The calculation excludes Saturdays, Sundays and holidays pursuant to D.C. Official Code § 1-1162.32(c).

address his failure to timely file a 2015 LRF. He created his 2015 Lobbyist Registration on January 10, 2016 and made the requisite payment electronically at 6:40 p.m., on the same day. He also clarified that his “[g]eneral support for the merger” amounted to “advocate[ing] for [the] D.C. Public Service Commission[’s] approval of Pepco/Exelon Merger, D.C. Public Service Commission Case No. FC1119, *In re Joint Application of Exelon Corp., Pepco Holdings, Inc., Potomac Electric Power Co., Exelon Energy Delivery Co., LLC and New Special Purpose Entity, LLC for Authorization and Approval of Proposed Merger Transaction.*” (Case No. FC1119). He clarified further that he spoke with Councilmembers to “request [] [their] support for D.C Public Service Commission approval of Pepco/Exelon merger, D.C. Public Service Commission Case No. FC1119.”

Upon review of Mr. Pearson’s November 2, 2016 response, OGE determined that the above activities fell outside of the definition of lobbying and further determined that Mr. Pearson did not lobby the District government on behalf of Pepco in the calendar year 2015. Even though Mr. Pearson was not required to register as a lobbyist, he voluntarily chose to register as such for the calendar year 2015. Additionally, the review of the financial records provided by Mr. Pearson corroborated the information provided on his activity report. Mr. Pearson billed a \$2,000.00 “KSPLLC” invoice to Pepco for lobbying activities performed on behalf of Pepco. Mr. Pearson also incurred no lobbying expenses during this reporting period and the January 2016 LAR reflected compensation of \$2,000 and total expenditures of \$0.00.

OBJECTIVE

The Office of Government Ethics’ objective is to determine Mr. Pearson’s compliance with the Ethics Act by providing documentation to support information disclosed on his January 2016 Lobbyist Activity Report filed with the Director of Government Ethics.

SCOPE

The audit procedures performed included examination of source documents and reports filed with the Director of Government Ethics in order to verify the following:

- i. Mathematical accuracy of the lobbyist activity report during the period audited;
- ii. Amount of income reported for lobbying activities;
- iii. Total reported receipts and expenditures and individual transactions;
- iv. Proper categorization of the receipts and expenditures of the filer/registrant- who may be a lobbyist, lobbying entity, or client; and
- v. Other review procedures as deemed necessary under the circumstances.