

Lobbyists Sue Massachusetts Secretary of the Commonwealth Over Reporting Requirements . . . and Win

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A Massachusetts Superior Court judge recently ruled that Massachusetts Secretary of the Commonwealth William F. Galvin overstepped his authority by requiring lobbyists to list on their lobbying disclosure reports all public officials with whom the lobbyists engaged in conversation. This decision is the first major challenge to Massachusetts' new lobbying laws, which were revamped in 2009.

Massachusetts' lobbying law requires lobbyists to disclose all "direct business associations" with public officials, but does not define "direct business association." In July 2012, Secretary of the Commonwealth Galvin's office sent emails to lobbyists asking the lobbyists to provide a list of all public officials with whom they engaged in oral or written communications, which the Secretary of the Commonwealth deemed to be "direct business associations."

Several lobbyists challenged the Secretary of the Commonwealth's interpretation of the term "direct business association" in court, arguing that the statute only intended to require disclosure of business transactions and relationships. A state trial court judge in Boston agreed with the lobbyists, striking down the Secretary of the Commonwealth's interpretation of this provision and noting that the Secretary of the Commonwealth's justification made "absolutely no sense." The Superior Court judge explained that the term "direct business association" would "denote a joint enterprise or transaction between one or more individuals of a financial or commercial nature." The judge added that the term "is not commonly understood to be an event as transient as a 'communication' from one person to another, which is the meaning that the Secretary appears to ascribe

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to the term.”