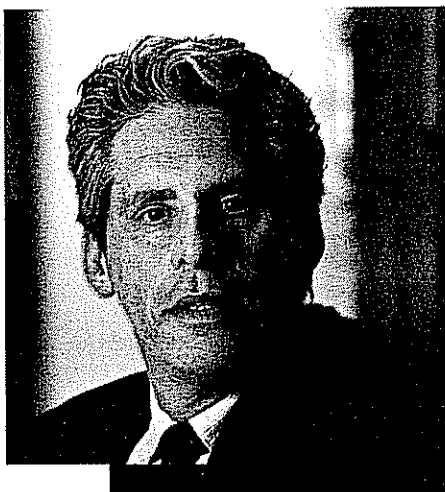


Lobbying & Law

■ DO LAW FIRMS HAVE THE RIGHT MODEL?

BY BARA VAIDA AND PAUL SINGER

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STUART PAPE: "What you've seen is that virtually every law firm with an office in D.C. has decided to have a public policy practice"

To hear Patton Boggs partner Stuart Pape tell it, there was a time when no one inside the Beltway thought that law firms could be top dog when it comes to bringing in lobby dollars.

"Folks were predicting that the lobbying business would be taken over by the corporate PR entities, because the perception was that they had more capital to work with, and capital is hard to come by at a law firm," Pape said of the conventional wisdom in the late 1990s.

But the prediction hasn't come true. In the first half of 2004, law and lobbying firm Patton Boggs solidified its lead as the No. 1 lobby firm in terms of fees reported under the 1995 Lobbying Disclosure Act, and law firm Akin Gump Strauss Hauer & Feld took the No. 2 slot for the first time. "Everyone predicted the doom of the law firm model," Pape

said. "But what you've seen is that virtually every law firm with an office in D.C. has decided to have a public policy practice." Pape argued that the law firm model succeeds because law firms employ lobbyists who "know more than the talking points" on an issue when they go to Capitol Hill.

Hogwash, says Gerald Cassidy, chairman of No. 3 lobby firm Cassidy & Associates, a subsidiary of public-relations and advertising giant Interpublic Group of Companies. "For a long time, we beat [the competition] every year, so that concept, if it's true, must be newly true," said Cassidy, whose firm was No. 1 in every six-month reporting period except one between 1998 and the first half of 2003.

Cassidy suggests that law firms' leg up on lobby firms is in calculating figures under the LDA. The law firms "have lots of clients they provide legal assistance to, and they can decide what is legal work

■ THE TOP 10 LOBBYING FIRMS

(Fee income, January 1 to June 30, 2004*)

LOBBYING FIRM	LOBBYISTS	1ST HALF 2004 REVENUES	1ST HALF 2003 REVENUES	% CHANGE 2003-2004
1. Patton Boggs	63	\$15,210,000	\$14,330,000	+6
2. Akin Gump Strauss Hauer & Feld	50	13,780,000	13,140,000	+5
3. Cassidy & Associates	43	13,280,000	14,320,000	-7
4. Van Scoyoc Associates	46	11,560,000	9,980,000	+16
5. Piper Rudnick	47	8,760,000	9,200,000	-5
6. Dutko Group	36	8,590,000	5,140,000	+67
7. Williams & Jensen	21	8,560,000	8,880,000	-4
8. Greenberg Traurig	22	7,040,000	13,600,000	-48
9. Barbour Griffith & Rogers	11	6,780,000	5,690,000	+19
10. Clark Consulting**	8	6,720,000	4,490,000	+50

* Numbers are rounded to closest \$10,000.

** Firm declined to provide LDA documents to *National Journal*. Total is based on firm estimate.

SOURCES: Lobbying disclosure reports, individual firms, *PoliticalMoneyLine*

and what is lobbying work," Cassidy said.

He has a point. Because the LDA is fuzzy on definitions of lobbying, and because firms are urged to round their numbers, firms use various methods for calculating their LDA fees. Further, the law has significant omissions in what must be reported as lobbying. Among the activities not required to be reported under the LDA are advertising, PR campaigns, grassroots activities, lobbying on behalf of foreign entities, and representing clients at regulatory agencies and the White House who aren't among the most senior government officials.

According to Mark Ruge, head of the policy practice at No. 27 Preston Gates Ellis & Rouvelas Meads, LDA figures "are a very imperfect measure" of what firms are actually doing, particularly in the case of law and lobby firms that may be offering strategic advice that is not counted on the disclosure forms. "If you guys weren't writing stories about the LDA, we wouldn't even go to the trouble of adding them up," Ruge said.

Bearing in mind the murkiness of the numbers, they nonetheless are one measure of success on K Street, and they show which companies, organizations, and individuals are hiring help to make their case in Washington. *National Journal* ranks the top 10 lobbying firms every six months based on an analysis of the LDA documents filed with Congress. As part of the analysis, *National Journal* also compares the fees of the 20 firms below the top 10 to determine which firms had significant growth.

Overall, the top 10 firms raked in \$100.3 million, up 1.5 percent from the \$98.8 million of a year earlier. The most notable growth rate was posted by No. 6 Dutko Group, whose fee income rose by 67 percent to \$8.59 million, compared with \$5.14 million (and a No. 13 ranking) in the first six months of 2003. The firm that was hit the hardest was the law firm Greenberg Traurig, whose fee income fell by 48 percent to \$7.04 million, from the \$13.6 million of a year earlier. Barbour Griffith & Rogers returned to the top 10, coming in at No. 9 after falling off the list for all of 2003.

Two firms also dropped out of the top 10 list this time: Hogan & Hartson fell to No. 11 from No. 9, while Quinn Gillespie & Associates dropped from No. 10 to No. 13. Quinn Gillespie's co-founder Ed Gillespie took a leave from the firm in mid-2003 to become chairman of the Republican National Committee. He is expected to return to the firm at the end of the year.

Other changes among the top 10 from a year ago include lobbying firm Van Scoyoc Associates' climb up the ladder to No. 4 from No. 5, and law firm Piper Rudnick's rise to No. 5 from No. 6.

The volatility among the top 10 this year underscores the continuing competitive-

ness of the lobbying world and the importance of key rainmakers at a firm. "There is plenty of room, broadly speaking, in the lobbying field, and, quite frankly, it's very hard to stay on top for any period of time," Pape said. Among his firm's returning clients were perennial top spenders Mars, which paid Patton Boggs \$1.14 million to provide guidance on agriculture commodity prices, and the Association of Trial Lawyers of America, which paid \$700,000 in the first half of 2004.

But Greenberg Traurig has lost both major rainmakers and major clients. The firm slid in the rankings after two of its top moneymen, Jack Abramoff and Gary Shiffman, departed in early 2004. Abramoff left under a cloud of questions about fees he charged his Indian tribe clients, while Shiffman exited to take a position in the Department of Homeland Security.

"It is a time of change," said Fred Baggett, chair of the firm's governmental-affairs practice. He acknowledged that Greenberg's loss in revenue was "significant" but expressed confidence that, through new hires, Greenberg will remain in the top 10. Despite the controversy with Abramoff, Indian tribes remain top clients at Greenberg. The Mississippi Band of Choctaw Indians and the Agua Caliente Band of Cahuilla Indians are the firms' top two clients, which paid \$640,000 and \$500,000, respectively, in the last six-month period.

Other firms that posted a loss include

Cassidy & Associates, Piper Rudnick, and Williams & Jensen. Cassidy's lobbying-fee income was down 7 percent from a year ago, to \$13.3 million, in part because of the company's changing business model. Cassidy said his firm has been investing in helping clients win federal contracts—work that provides higher profit margins but does not have to be reported to Congress. Meanwhile, among the firm's leading customers in the lobbying area was Boston University, at \$440,000 in fees for the period, coming in as its top client.

Cassidy noted, as did other firms, that the first half of the year was "tough" because very little major legislation has passed in Congress in this presidential election year. Piper Rudnick partner John Merrigan said some of the firm's legislative work reported under the LDA has shifted to the regulatory agencies. The firm's top client, as it has been for several reporting periods, was Equitas, the British insurance firm interested in asbestos-reform legislation.

Williams & Jensen President Steve Hart said that it completed work in 2003 for one of its largest clients, the Partnership to Protect Consumer Credit, contributing to his firm's revenue decline in 2004. Its top client for the most recent period was Owens-Illinois, which paid Williams & Jensen \$520,000 for work on the asbestos bill.

A firm that had no problem attracting new clients was Barbour Griffith & Rogers. After the departure of founding partner

TOP 11-25 LOBBYING FIRMS

(Fee income, January 1 to June 30, 2004*)

LOBBYING FIRM	1ST HALF 2004 REVENUES	1ST HALF 2003 REVENUES	% CHANGE 2003-2004
11. Hogan & Hartson	\$ 6,680,000	\$ 6,990,000	-4
12. Swidler Berlin Shereff Friedman	6,660,000	6,160,000	+8
13. Quinn Gillespie	6,410,000	6,320,000	+1
14. PMA Group**	6,360,000	4,600,000	+38
15. Washington Council Ernst & Young	6,120,000	6,660,000	-8
16. PodestaMattoon	5,920,000	3,910,000	+51
17. Washington Group**	5,430,000	4,640,000	+17
18. Federalist Group	5,300,000	2,240,000	+139
19. Mayer Brown Rowe & Maw	5,230,000	3,330,000	+57
20. Alcalde & Fay**	4,860,000	3,790,000	+28
21. Carmen Group	4,780,000	4,140,000	+16
22. Clark & Weinstock	4,760,000	3,960,000	+20
23. Livingston Group	4,500,000	2,280,000	+97
24. Holland & Knight	4,310,000	4,570,000	-6
25. Timmons & Co.**	3,900,000	3,920,000	-1
25. Wexler Walker Public Policy Assoc.	3,900,000	2,500,000	+56

*Numbers are rounded to closest \$10,000.

**Firms declined to provide LDA documents to *National Journal*. Numbers cited in chart were from firm's estimate or from documents posted on the Senate Web site.

SOURCES: Lobbying disclosure reports, individual firms, *PoliticalMoneyLine*

AGING COMPUTERS HAMPER FARA UNIT

The Foreign Agents Registration Act was passed before World War II with the goal of exposing Nazi propaganda and foreign subversive activity. Now, 66 years later, it serves as a clearinghouse that tracks the hundreds of millions of dollars that foreign governments and businesses spend each year lobbying in the United States.

With few exceptions, those who fall under the act's rules must complete a detailed accounting of their activities, from who met with a lawmaker to how much was spent on office supplies in the service of a client. FARA requirements are much more rigorous than those imposed by the Lobbying Disclosure Act, which covers lobbying by domestic entities. But the stewardship of the FARA filings is not.

FARA filings are updated on a rolling deadline of every six months from the time a lobbying firm was first retained. With no single deadline, it is impossible to compare firms over any given time period. In addition, the Justice Department unit that maintains the FARA records uses computer systems that are at least 10 years old. Last month, the FARA unit's four public terminals—the only public access to the filings—were out of commission for more than a week.

The department signed a half-million-dollar contract last spring for a new computer system that is supposed to be in

place by December. But neither FARA unit employees nor the contractor, Dynamic Research, would comment on how the upgrade will improve the system. For the time being, public access to the filings will remain a shoe-leather affair, not an online one. "There's a tremendous amount of data that needs to be formatted," said Justice Department spokesman Bryan Sierra.

National Journal gathered the most recent six-month FARA filings for each of the top lobby firms. In the first half of 2004, Patton Boggs reported \$2.5 million in FARA-related earnings, while Akin Gump Strauss Hauer & Feld took in \$1.5 million, and Van Scoyoc Associates reported \$200,000 over roughly the same period. Barbour Griffith & Rogers reported earning \$179,000 from December 2003 through May 2004, and Piper Rudnick reported \$2.18 million from September 2003 to February 2004. Cassidy & Associates reported \$58,000 in earnings from December 2002 through May 2003, while Greenberg Traurig reported \$350,000 from November 2002 through April 2003. Williams & Jensen last received FARA-related fees in 1995 and terminated its registration that year. Dutko Group is not registered with FARA.

—Peter Bell

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and now Mississippi Gov. Haley Barbour, the firm slipped off the top-10 list in 2003. But the all-Republican firm is now reaping the benefits of the Senate's return to Republican control in 2003, said CEO Lanny Griffith: "We finished the restructuring following Haley's departure, and we've been able to retain a lot of our clients in addition to picking up new ones this year." Helping to drive the firm back on to the top-10 list was Foruper, a London-based venture capital firm that paid Barbour Griffith \$460,000 during the first half of the year.

Most of the top lobbying shops said they expanded revenues by providing more services to existing clients. Mark Irion, head of the Dutko Group, and Stewart Van Scoyoc, president of Van Scoyoc Associates, both attributed their shops' strong performance to returning clients who in turn referred more business the firms' way.

"One of the characteristics that allows us to continue to grow is, we don't lose clients, and so we don't have to replace a lot of business," said Van Scoyoc, whose top returning client was the Coalition of EPSCoR States, which paid \$240,000 for the firm's work getting federal earmarks for science funding at universities. Dutko's top returning client was Howrey Simon

Arnold & White, which paid Dutko \$303,000 to monitor the government's proposed buyout of tobacco farmers.

Several smaller firms also showed dramatic growth in the first half of 2004, though some of the growth may have more to do with accounting changes than with actual new business.

For instance, the LDA reports filed by No. 25 Wexler & Walker Public Policy Associates show that the firm took in \$3.9 million in lobbying fees in the first six months of the year, an increase of 56 percent over the same period last year.

But Wexler General Manager Dale Snape said the firm's actual growth over that period is probably about 8 to 10 percent. The difference, he said, is the company's decision last year to institute more-consistent guidelines about what to report as lobbying under the LDA. In previous years, employees had more discretion to decide which of their activities would be included in the lobbying reports and which would be considered "consulting" or other advisory activity not covered under the LDA.

"There is a lot of gray area" about what is covered activity and what is not, Snape said. "There is enough judgment required under the act as to the activities counted as

lobbying for reasonable people to disagree." The firm's new approach, Snape said, is that "if it is ambiguous, leave it in," a decision that has resulted in larger numbers being reported.

Wexler's decision highlights the capriciousness of the disclosure process. For marketing purposes, it is in a firm's interest to report the largest possible number on the public forms, as a way of proving the firm's clout and catching the attention of top-10 list-makers. On the other hand, a corporation's lobbying expenses are not tax-deductible, while costs for other consulting services are; this creates an incentive for the client to ask the lobbyist to minimize the dollars reported as lobbying fees.

Then there is the matter of mergers.

The Federalist Group, No. 18, jumped from \$2.2 million in the first half of 2003 to \$5.3 million in the first half of 2004, largely on the strength of its merger earlier this year with Berman Enterprises. "Once we joined forces, it just about doubled the numbers," partner Drew Maloney said. But the merger also allows the company to "offer more to our existing clients," with a concomitant further boost in revenue.

PodestaMattoon's lobbying revenues

TOP CLIENTS

(January 1 to June 30, 2004)

PATTON BOGGES

1. Mars	\$1,140,000
2. Association of Trial Lawyers of America	700,000
3. Hoffmann-La Roche	540,000
4. Time Warner	400,000
5. Kidney Care Partners	300,000
5. Mutual Legislative Committee	300,000

AKIN GUMP STRAUSS HAUER & FELD

1. Gila River Indian Community	\$ 820,000
1. Florida Citrus Mutual	820,000
3. Marsh & McLennan	640,000
4. Dow Chemical	560,000
5. Mortgage Insurance Companies of America	480,000

CASSIDY & ASSOCIATES

1. Boston University	\$440,000
2. RAO United Energy Systems of Russia	280,000
3. UMass Memorial Health Care	280,000
4. Singapore Technologies Telemedia	260,000
5. Briggs & Stratton	200,000
5. Ocean Spray Cranberries	200,000

VAN SCOYOC ASSOCIATES

1. Coalition of EPSCoR States	\$240,000
2. Federal Home Loan Bank of San Francisco	240,000
3. Federal Home Loan Mortgage Corp. (Freddie Mac)	220,000
4. University of Alabama System	200,000
5. Computer Sciences	180,000

PIPER RUDNICK

1. Equitas	\$620,000
2. Starwood Hotels & Resorts Worldwide	380,000
3. Staples	360,000
4. Diageo	320,000
5. Raytheon	300,000
5. Stewart & Stevenson Services	300,000

DITKO GROUP

1. Howrey Simon Arnold & White	\$303,000
2. Winstar/IDT	270,000
3. Pacificare Health Systems	235,000
4. Akin Gump Strauss Hauer & Feld	210,000
4. American Pacific	210,000

WILLIAMS & JENSEN

1. Owens-Illinois	\$520,000
2. OGE Energy	280,000
3. Tailored Clothing Association	260,000
4. Wyeth	240,000
5. Time Warner	220,000

GREENSBURG TRAUIG

1. Mississippi Band of Choctaw Indians	\$640,000
2. Agua Caliente Band of Cahuilla Indians	500,000
3. Tyco International	480,000
4. Convergys	380,000
5. Sac Fox Nation Meskwaki Tribe	340,000

BARBOUR GRIFFITH & ROGERS

1. Foruper	\$460,000
2. Alfa Bank	360,000
3. UnitedHealth Group	280,000
4. FM Policy Focus	260,000
5. Alliance for Quality Nursing Home Care	220,000
5. Lorillard Tobacco	220,000

CLARK CONSULTING FEDERAL POLICY GROUP

1. Starwood Hotel & Resorts Worldwide	\$1,000,000
2. Council for Energy Independence	620,000
2. The Leasing Coalition	400,000
4. General Electric	260,000
5. Mortgage Insurance Companies of America	180,000

SOURCE: Lobbying disclosure reports

over the same time period rose from \$3.9 million to \$5.9 million, in part because the firm is wrapping up projects for clients in advance of the elections, said Missi Tessier, the firm's spokeswoman.

"Presidential election years are typically better in the first half of the year than the second half," she said, because the legislative calendar is front-loaded and companies pull back late in the year to reassess strategy based on the election's outcome. For instance, the firm did a major advocacy campaign early this year for the Science Coalition, a consortium of research institutions interested in maintaining federal support for basic science.

PodestaMattoon, No. 16 on the list, reported \$560,000 in lobbying revenue from the coalition in the first six months of 2004.

Particularly in smaller firms, rankings may be significantly affected by the "less than \$10,000" category on the LDA form. For the purpose of these rankings, *National Journal* counts any filings listed in this category as a "zero," because any other number would be arbitrary. But some firms have several dozen clients that did less than \$10,000 worth of business in the past six months. Hogan & Hartson chose to make available a list of 19 clients in the under-\$10,000 category,

showing that they accounted for \$147,823 in fees.

Moving into the second half of 2004, many firms see the possibility of strong revenue because Congress is still working on appropriations as the November election approaches. This could result in a lame-duck session and plenty of additional lobbying work. "A client might wake up one day and say, 'Gee, there's going to be a lame-duck.' And they might say, 'Whatever it costs, get [a piece of legislation] done,'" Pape said.

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