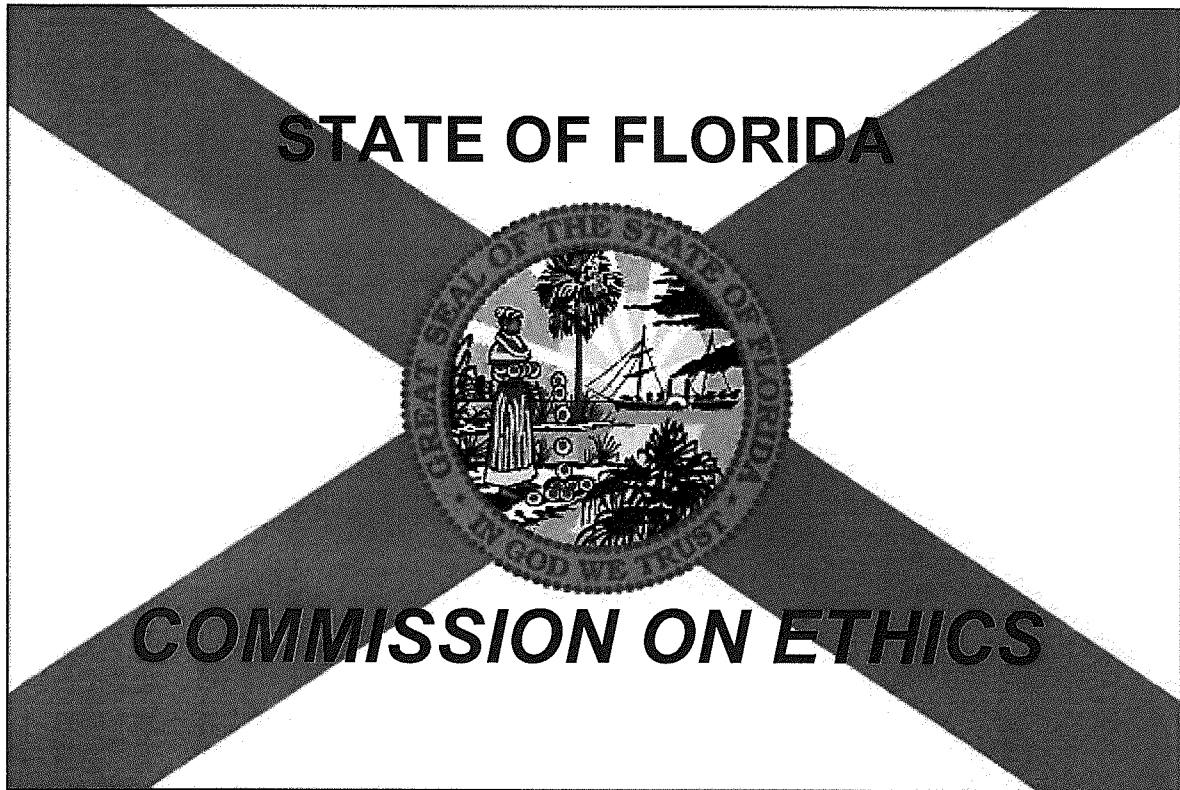


AMENDED REPORT OF INVESTIGATION



Complaint Number 19-125

NOTICE CONCERNING CONFIDENTIALITY

This report of investigation concerns an alleged violation of Chapter 112, Part III, Florida Statutes, or other breach of public trust under provisions of Article II, Section 8, Florida Constitution. The Report and any exhibits may be confidential (exempt from the public records law) pursuant to Section 112.324, Florida Statutes, and Chapter 34-5, F.A.C., the rules of the Commission on Ethics. Unless the Respondent has waived the confidentiality in writing, this report will remain confidential until one of the following occurs: (1) the complaint is dismissed by the Commission; (2) the Commission finds sufficient evidence to order a public hearing; or (3) the Commission orders a public report as a final disposition of the matter.

STATE OF FLORIDA
COMMISSION ON ETHICS
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

AMENDED REPORT OF INVESTIGATION


TITLE: MARION HAMMER
Lobbyist
Tallahassee, Florida

COMPLAINT NO.: 19-125

INVESTIGATED BY: 
Ronald D. Moalli

Distribution: Commission on Ethics
Respondent
Advocate
File

Releasing Authority: 
C. Christopher Anderson, III
Executive Director


Date

* * * *

AMENDED REPORT OF INVESTIGATION

COMPLAINT NO. 19-125

(1) The complaint in this matter was filed by Perry Thurston who alleges that Marion P. Hammer, while serving as a lobbyist, violated the Code of Ethics for Public Officers and Employees. Mr. Thurston is a member of the Florida Senate; thus, he is referred to herein as "Senator Thurston."

(2) Senator Thurston alleges that Ms. Hammer is registered as a lobbyist of the executive branch and receives, or is entitled to receive, compensation for the purpose of lobbying executive branch agencies. Senator Thurston alleges that from 2014 to present, Ms. Hammer has been registered to represent two principals, The National Rifle Association (NRA) and Unified Sportsman of Florida (USF), has engaged in activities that constitute lobbying executive branch agencies and/or personnel, and has received compensation for lobbying activities from both principals. Senator Thurston further alleges that documents filed with the Internal Revenue Service (IRS) indicate that Ms. Hammer is an employee of USF, though not an employee of the NRA, and because Ms. Hammer is not an in-house, salaried employee lobbyist for the NRA, she is a lobbying firm as defined in Section 112.3215(1)(g), Florida Statutes.¹ Senator Thurston alleges that Ms. Hammer was required to identify her association with her lobbying firm in conjunction with the lobbyist registration process and submit a compensation report for each calendar quarter during which she was registered as a lobbyist for the NRA, and in which she received, or was entitled to receive, compensation to represent this principal.

(3) The Executive Director of the Commission on Ethics noted that based upon the information provided in the complaint, the allegations were sufficient to warrant a preliminary investigation to determine whether the Respondent's actions violated Section 112.3215(3), Florida Statutes (Lobbying Before the Executive Branch—Registration), and Section 112.3215(5), Florida Statutes (Lobbying Firm Lobbying Before the Executive Branch—Compensation Reporting).

(4) Senator Thurston reported that from 2014 to the present, Ms. Hammer has registered as a lobbyist for the NRA and USF. Based on his review of USF IRS Form 990 (Return of Organization Exempt from Income Tax) filings, Senator Thurston wrote, it "appears" Ms. Hammer is an employee of USF. However, he continued, from his review of NRA IRS Form 990 filings, it "appears" that Ms. Hammer is not an employee of the NRA. He reported that the 2014 through 2016 NRA IRS Form 990 filings describe Ms. Hammer as a "Director" of the NRA.

¹ Section 112.3215(1)(g) defines "Lobbying firm" to mean "a business entity, including an individual contract lobbyist that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist."

(5) Senator Thurston discovered that the NRA Form 990s listed Ms. Hammer as having received \$147,000 in compensation in 2014; \$172,000 in compensation in 2015; and \$206,000 in compensation in 2016. He further reported that reports from the NRA Secretary to the NRA Annual Meeting of Members indicate that in 2017, Ms. Hammer, the Executive Director of USF "received \$134,000 for legislative lobbying in Florida," and in 2018, she "received \$270,000 for consulting services and legislative lobbying in Florida." Senator Thurston presented evidence that from 2014 through 2018, Ms. Hammer not only lobbied in the legislative branch, but agencies within the executive branch as well.

(6) Senator Thurston contends that because Ms. Hammer was not an "in-house" salaried NRA lobbyist, she is a lobbying firm and that she was and is required to report her lobbying firm compensation for each calendar quarter she was registered as a lobbyist for the NRA. Senator Thurston discovered that from 2014 to the present, during the time Ms. Hammer was registered as a lobbyist, she did not file a compensation report for any calendar quarter she was registered to represent the NRA.

(7) Section 112.3215(3), Florida Statutes, requiring the registration of lobbyists provides that "[a] person may not lobby an agency until such person has registered as a lobbyist with the commission." During the registration process, the lobbyist must register the principal(s)² for which he or she is lobbying and disclose certain information, under oath, regarding themselves, and their principals, if applicable.

(8) Pursuant to Section 112.3215(1)(h), Florida Statutes, there are two types of lobbyists – individuals who are contracted and receive payment or consideration for the purpose of lobbying, and individuals who are principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that person or entity. Commission Rule 34-12.100(1), Florida Administrative Code, further clarifies that the latter type of lobbyist is an employee of their principal and a significant responsibility of the employee/lobbyist to their employer/principal is overseeing the employer's relationships with government. Since 2015, and pursuant to Section 112.3215(3), Florida Statutes, both types of lobbyists may use the electronic Lobbyist Registration and Compensation Reporting (LRCR) system for the submission and recording of lobbyist registrations.

(9) Section 112.3215(5), Florida Statutes, requires that each "lobbying firm" must "file a compensation report with the commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal." Section 112.3215(1), Florida Statutes, defines "lobbying firm" to mean "a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist." Only contract lobbyists (the first category of lobbyists) associate with a lobbying firm. Conversely, an individual lobbyist who is a full-time salaried employee of their principal does not have a firm with which to associate because the registered lobbyist is an employee of an entity (which is their only principal) that does not derive compensation from

² Section 112.3215(1)(i), Florida Statutes, defines "principal" to mean "the person, firm, corporation, or other entity which has employed or retained a lobbyist."

principals for lobbying. Lobbyists that are full-time employees of their principal do not associate with a lobbying firm.

(10) According to the Lobbyist Registration Office, during the registration process, the lobbyist is required to register and document the principal whom the lobbyist represents. If a lobbyist does not associate themselves with a lobbying firm during the registration process, the LRCR system identifies the registrant as a lobbyist principally employed for governmental affairs (i.e., a full time employee of their principal not required to file compensation reports). Alternatively, if a lobbyist *does* associate their lobbyist registration with a lobbying firm, the LRCR system identifies that lobbyist as a contract lobbyist and requires the lobbying firm to create a compensation reporting profile. Once the lobbying firm has created a profile, which identifies each of the lobbying firm's lobbyists, the LRCR system notifies the lobbying firm regarding the requirement to file lobbying compensation reports quarterly.

(11) A review of Ms. Hammer's executive branch lobbyist registration information on the lobbyists' registration website, dating back to 2006³, reflects that she registered to represent two principals, USF and the NRA, and that she continuously reregistered through 2019 to represent these same two principals. Records reflect that Ms. Hammer did not associate with a lobbying firm when she originally registered and annually renewed her registration for these two principals, USF and the NRA, and that she did not file compensation reports disclosing compensation received for lobbying on behalf of either USF or the NRA, since 2006. As a result of Ms. Hammer not associating with a lobbying firm, the LRCR system designated her as falling into the category of a lobbyist that is principally employed for governmental affairs, or a full-time employee of each of her respective principals, who is not required to file compensation reports.

(12) Ms. Hammer, interviewed in the company of attorney Richard E. Coates, related that she has been registered to lobby in the State of Florida since 1974. Explaining why she did not associate with a lobbying firm and report executive branch lobbying compensation, Ms. Hammer recalled that when the reporting system changed⁴, due to her confusion about whether she should associate with a lobbying firm, she sought the legal advice of the then-Florida Senate General Counsel, D. Stephen Kahn. She said she asked him if she was required to associate with a lobbying firm. Ms. Hammer said Mr. Kahn asked her one question, "You are a full-time employee aren't you?" Ms. Hammer said that because she is a full-time employee of USF, she answered "yes," and he informed her that she was not required to associate with a lobbying firm. Ms. Hammer maintains her relationship with the NRA was not discussed during this interaction with Mr. Kahn. Due to this advice, Ms. Hammer said she has registered in the same manner every year, not affiliating with a lobbying firm and not reporting compensation.

(13) Mr. Kahn could not recall by telephone a conversation with Ms. Hammer concerning advice about associating with a lobbying firm. He said, "that is not to say the conversation

³ Although Ms. Hammer's lobbying activities predate 2006, the lobbyist registration data is only available from 2006 to present due to data retention schedules.

⁴ Although Ms. Hammer could not recall the year, on-line compensation reporting went into effect January 2007.

did not happen," he just could not recall. Mr. Kahn said that when he was serving as the Senate General Counsel, Ms. Hammer shared her office space with another business that he frequented once, if not a couple of times a week. He stated that due to visiting this other business, he would, at times, come into contact with Ms. Hammer. He added that he could not recall this specific conversation due to the length of time that has passed.

(14) Explaining her relationship with USF and the NRA, Ms. Hammer said she is employed by USF as its Executive Director, that she is USF's only employee, and that her principal duties are legislative and executive branch lobbying for USF and the NRA. Explaining her USF duties for the NRA, Ms. Hammer said she is compensated to lobby on behalf of the NRA through her employer, USF. Ms. Hammer further explained that the NRA funds its legislative and executive lobbying efforts in Florida through payments to USF, adding, USF is an affiliate of the NRA and the main funding source for USF comes from the NRA.

(15) Ms. Hammer confirmed that she is not an employee of the NRA. However, she continued, she is "employed" as a consultant for the NRA. She explained that she provides general consulting services to the NRA through a contract executed in her individual capacity, and that this service does not include lobbying for the NRA in the State of Florida. She reported that she does not receive compensation from the NRA for lobbying services in the State of Florida, other than her salary as an employee of USF. She added that she has been a member of the NRA Board of Directors since 1982, and that she receives no compensation for her service on the Board.

(16) Attorney Coates provided a copy of Ms. Hammer's contract with the NRA, specifically, the Scope of Services section, for review only, citing confidentiality reasons. The contract states:

The Consultant will perform services in the form of advice, analysis, and other duties reasonably assigned by the Executive Vice President of the NRA and the Executive Director/ILA including providing information, advice and counsel on legislation, initiative, referenda, election, communication and media matters and other related services as may be requested by the NRA or NRA/ILA. Consultant will not work under the day-to-day direction and control of the NRA in the performance of services.

(17) Mr. Coates provided a copy of a letter from Audrey H. Moore, General Counsel of Legislative Services (of the Florida Legislature), and a copy of a letter from Representative Thomas J. Leek, Chair of the Florida House of Representatives Public Integrity & Ethics Committee, which contains a Report of Investigation from General Counsel Moore. These letters and report reflect that Ms. Moore was directed by the Florida Legislature to conduct an investigation due to a complaint filed with the Florida House of Representatives, alleging that Ms. Hammer violated legislative rules by not reporting compensation as a lobbying firm. Ms. Moore's August 23, 2019, Report of Investigation, the narrative of which is appended as

Exhibit A, is pertinent to the Commission's investigation and is used to supplement Ms. Hammer's Commission interview.

(18) Ms. Moore's Report of Investigation contained a reference to the NRA's April 29, 2019, Board of Directors meeting minutes, in which the Board discussed Ms. Hammer/USF's relationship to the NRA. (Note: Both USF and the NRA are registered with the Florida Department of State, Division of Corporations, as not-for-profit corporations and file with the IRS as tax exempt 501(c)(4) corporations.) The minutes state that Ms. Hammer is the Executive Director of USF and that she receives compensation from USF, and that she serves on the NRA Board of Directors, for which she is not compensated. The minutes also report that Ms. Hammer receives consulting fees from the NRA. The meeting minutes further reflect and report that the NRA provides financial assistance to USF in the form of "legislative assistance grants" in order to "actively and aggressively promote and advance the legislative mission and goals of the NRA/ILA in Florida" The minutes record each year's grant amount dating from 2000 through 2019. From 2014 through 2018, USF received \$216,000 from the NRA annually, and in 2019, USF had received \$36,000 from the NRA. The minutes further report that the "NRA provide USF an annual grant to maintain a full-time office and staff near the Florida Capitol, where all the necessary services are provided to run a successful state lobbying operation."

(19) Also included in Ms. Moore's Report of Investigation is an exhibit titled, "John Frazer Responses to Interrogatories." Mr. Frazer is the NRA Secretary and General Counsel. "Interrogatory NO.2" provides information pertaining to the business relationship between Ms. Hammer and the NRA. In her interrogatory, Ms. Moore inquired as to whether the NRA has been party to a contract with Ms. Hammer, in her individual capacity. Mr. Frazer answered "yes" and quoted the Scope of Services section from the contract, which mirrored the language in the Scope of Services in the copy of the contract shown by Mr. Coates.

(20) Mr. Frazer, in response to Ms. Moore's interrogatory regarding whether the NRA provides compensation to USF for lobbying the Florida Legislature, wrote, "The NRA funds grants pursuant to applications by the Unified Sportsman of Florida, including lobbying activities." (Ms. Hammer verified that her lobbying activities included both the Florida executive and legislative branches of government.)

(21) For Ms. Moore's investigation, Ms. Hammer submitted a sworn affidavit that reiterates some facts previously mentioned in this Commission on Ethics Report of Investigation, as well as other facts that establish her relationship with the NRA.

(22) Ms. Hammer wrote in the affidavit that Article IV, Section 2, of the NRA Bylaws requires the NRA Secretary to report business transactions in which entities led by NRA Board members, officers, or employees received payments in excess of \$2,000 for goods and services provided to the NRA. She wrote that, as a Board member who does business with the NRA in excess of \$2,000, she submits a letter to the NRA each year reporting the sums she receives for General Consulting Services. Ms. Hammer provided a copy of these letters for 2005-2014, and 2016-2018, for Ms. Moore's investigation. She wrote that although her letters to the NRA are on USF letterhead, and include her title as Executive Director, the sums

disclosed are those paid to her in her individual capacity by the NRA for General Consulting Services.

(23) The business transaction letters from Ms. Hammer to the NRA Secretary, reporting her business transactions with the NRA, reflect that in 2014, Ms. Hammer "did business" with the NRA and received \$197,000 from the NRA; no letter was provided for 2015; \$256,000 in 2016; \$184,000 in 2017; and \$270,000 in 2018.

(24) Ms. Moore included as "Exhibit I" of her Report of Investigation, the 2010 through 2019 NRA "Report[s] of the Secretary to the Annual Meeting of the Members." These are the reports the NRA Secretary submits to the NRA Board reporting business transactions in which entities led by NRA Board members, officers, or employees received payments in excess of \$2,000 for goods or services provided to the NRA. These reports document that from 2009 through 2016, "Ms. Marion Hammer, Executive Director of Unified Sportsman of Florida, did business with the NRA in the amount of" However, for the year 2017, the report states, "Ms. Marion Hammer, Executive Director of Unified Sportsman of Florida, received \$134,000⁵ for legislative lobbying in Florida" and in the 2018 report, it states, "Ms. Marion Hammer, Executive Director of Unified Sportsman of Florida, received \$270,000 for consulting services and legislative lobbying in Florida."

(25) In a separate letter to Ms. Moore for her investigation, Ms. Hammer explained, and reiterated in her interview with this Investigator, that in the 2018 and 2019 NRA Report of the Secretary to the Annual Meeting Members, reporting the previous year's Board members, officer, or employees who received payments from the NRA, that her respective 2017 and 2018 compensation report's description of her compensation disclosure was changed/alterd to add lobbying duties, unbeknownst to her. She added that this was brought to her attention through the ethics complaint. She reported that her investigation into the matter discovered that Secretary Frazer's staff member, Mark Ness, admitted, both verbally and in an email, that he personally changed the description of the services to the NRA as, "legislative lobbying in Florida," in 2017, and "consulting services and legislative lobbying in Florida," in 2018. Although Ms. Hammer would not provide a copy of Mr. Ness' email, citing confidentiality, this Investigator was allowed to review a copy of the email. The email text confirmed that Mr. Ness admitted to the action of changing the description of Ms. Hammer's scope of services. Mr. Ness offered no reason why he changed the description, writing that he does not know why he changed the description of her services.

(26) General Counsel Moore's Report of Investigation, which interprets similar executive branch lobbyist registration and lobbyist compensation reporting requirements set forth in Joint Rule 1, and Section 11.045, Florida Statutes, concluded that Ms. Hammer represents two principals as a lobbyist before the legislature, USF and the NRA. Because Ms. Hammer is a full-time employee of USF, she is not required to associate her representation of this principal with a lobbying firm. However, the report further finds that M. Hammer is not an employee of the NRA. Therefore, with regard to the relationship between the NRA as a principal and Ms. Hammer as a lobbyist, the Legislature concludes that Ms. Hammer was required to

⁵ Ms. Hammer's report to the NRA Secretary reports that she did business in the amount of \$184,000 in 2017.

amend her lobbyist registration to reflect that her representation of the NRA is in association with a lobbying firm, USF. Further, her lobbying firm was required to file compensation reports for at least the previous four years reflecting her firm's lobbying compensation.

(27) Ms. Hammer reported that she was advised by Mr. Coates to, out of an abundance of caution, associate with the lobbying firm USF, and report executive branch lobbying compensation dating back to 2015, which would cover the four-year retention period addressed by Rule 1.7(1), Joint Rules (Records Retention and Inspection and Complaint Procedure). In her affidavit statement for Ms. Moore's investigation, Ms. Hammer wrote, "Pursuant to 11.045(1)(f), Florida Statutes (2018) and Rule 1.1(2)(d) of the Joint Rules of the Florida Legislature (2018), despite previously seeking legal advice, I have now come to believe that out of an abundance of caution USF is a lobbying firm in that it receives compensation from the NRA for the purposes of lobbying and I, an employee, am a lobbyist." Mr. Coates later advised that Ms. Hammer also amended her 2014 registration to reflect her association with USF and reported executive branch compensation to comply with the five-year Commission on Ethics statute of limitations.

(28) Ms. Hammer's executive branch lobbyist registration information on the LRCCR system reflects that on August 13, 2019, Ms. Hammer amended her executive branch registration and associated her lobbyist registration with the lobbying firm USF, and USF reported compensation from the NRA and USF in all four quarters of 2015, 2016, 2017, 2018, and three quarters of 2019. Records also reflect that on November 6, 2019, USF reported executive branch compensation for 2014. Each of these compensation reports filed by USF reflects that compensation from the NRA was in the reporting range of \$10,000-\$19,999, and compensation from USF was \$0. Total executive branch compensation was reported in the reporting range of \$1-\$49,999. An example of a USF executive branch compensation report is appended as Exhibit B.

END OF REPORT OF AMENDED REPORT

EXHIBIT A

EXHIBIT A



BILL GALVANO
President of the Senate

**GENERAL COUNSEL
OFFICE OF LEGISLATIVE SERVICES
THE FLORIDA LEGISLATURE**



JOSE R. OLIVA
*Speaker of the House of
Representatives*

IN RE LOBBYIST MARION P. HAMMER

CASE NUMBER 19-01

REPORT OF INVESTIGATION

INTRODUCTION

The Legislature, pursuant to § 11.045(2) and (3), Florida Statutes, has provided by joint rule for the registration of those who lobby the Legislature and the attendant requirement that lobbying firms who employ such registered lobbyists must file quarterly compensation reports. Joint Rules of the Florida Legislature ("Joint Rules") Rule One outlines the specific requirements for compliance with the statutory framework. The Office of Lobbyist Registration (LRO) is housed within the Office of Legislative Services (OLS). The LRO and the General Counsel of OLS are assigned primary responsibility for administration, enforcement, and application of the required lobbyist registration and compensation reporting rules. The OLS General Counsel issues binding informal opinions regarding the application of Rule One (Rule 1.8), takes appeals and conducts hearings regarding the assessment of fines (Rule 1.5(5)), and makes recommendations regarding requests to waive filing or fines (Rule 1.5(6) and (7)(b)).

Joint Rule 1.7 provides that, when a written complaint is made pursuant to the Senate Rules or the Rules of the House of Representatives, any documents and records necessary to substantiate compensation reports and registration documentation may be inspected when authorized. The person authorized to perform the inspection shall be designated in writing and

shall be a member of The Florida Bar or a certified public accountant licensed in Florida. As General Counsel for OLS, the Florida Senate and House of Representatives have authorized me to investigate whether lobbyist MARION P. HAMMER (Hammer) is in compliance with the requirements set forth in the Joint Rule One. To that end, I have collected and reviewed documents and solicited sworn statements from both Hammer and her principal to reach a determination as to whether Hammer is in compliance with Legislative rules applicable to her as a lobbyist before the Florida Legislature.

FACTS

Lobbyist Registration

1. Each house of the Legislature shall provide by rule, or may provide by a joint rule adopted by both houses, for the registration of lobbyists who lobby the Legislature. *Florida Statutes § 11.045(2), Tab 1*
2. "All lobbyists before the Florida Legislature must register with the Lobbyist Registration Office in the Office of Legislative Services. Registration is required for each principal represented." *Rule 1.1(1) Joint Rules of the Florida Legislature (2018), Tab 2*
3. A "lobbyist" is "a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. An employee of the principal is not a lobbyist unless the employee is principally employed for governmental affairs." *Rule 1.1(2)(e) Joint Rules, Tab 2*
4. Hammer has registered with the LRO as a legislative branch lobbyist each year from 2006¹ through 2019. Her registration reflects the same two lobbying principals in each of these fourteen years: National Rifle Association (NRA) and Unified Sportsmen of Florida (USF). *Exhibit A: Legislative Lobbyist Registrations*
5. Each lobbying firm and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate compensation reports and registration documentation. *Rule 1.7(1) Joint Rules, Tab 2*

¹ Lobbyist registration data is only currently available for the years subsequent to 2006 due to regular document retention schedules, though Ms. Hammer's lobbying activities substantially predate 2006.

6. Hammer is an employee of USF and holds the position of Executive Director. One of her principal responsibilities in that position is legislative and executive branch lobbying in the State of Florida. *Hammer Aff. ¶ 2, Tab 5*
7. The LRO must have an authorization from the identified principal to confirm that the registrant lobbyist is approved to represent the principal. *Rule 1.2(2) Joint Rules (2018)*. Registration is not complete until the Lobbyist Registration Office receives this authorization from the principal's representative. *Rule 1.2(1) Joint Rules (2018), Tab 2*
8. In 2006, both principals on whose behalf Hammer registered completed an "Authorization to Represent the Principal before the Florida Legislature" to authorize this representation: H.T. Sorensen, Secretary-Treasurer authorized on behalf of USF and Mary Rose Adkins, Fiscal Officer authorized on behalf of the NRA. *Exhibit B: 2014 Legislative Lobbying Renewal Forms at Bates No. 527-528*
9. Hammer renewed her registration to lobby on behalf of USF and NRA each year subsequent to 2006. *Exhibits A and B*
10. Hammer is not, nor has she been, an employee of the NRA. *Hammer Aff. ¶ 3, Tab 5*
11. Beginning in 2006, LRO did not require renewed registrations to provide an annual authorization form. Instead, renewed registrations relate back to the most recent authorization. *LRO practice first documented in 2007, see Exhibit C: Sample Authorization Form*
12. Through their registration, lobbyists are required to identify whether they are, or belong to a lobbying firm. *Rule 1.2(1) Joint Rules, Tab 2*
13. A "lobbying firm" is "any business entity, including an individual contract lobbyist that receives or becomes entitled to receive any compensation for the purpose of lobbying and where any partner, owner, officer, or employee of the business entity is a lobbyist." *Rule 1.1(2)(d) Joint Rules, Tab 2*
14. Hammer's registrations filed for the years 2006 through 2018 do not identify a lobbying firm with regard to either the NRA or USF.
15. Hammer asserts that she previously sought legal advice regarding the filing of compensation reports. *Hammer Aff. ¶ 6, Tab 5*
16. Through the year 2014, the system of record for the LRO was paper-based and required a sworn and notarized statement. *Rule 1.2(1) Joint Rules (2012), Tab 3*
17. In 2014, the paper form required to renew Hammer's lobbyist registration included the following statement:
Your 2013 form stated under oath that you were an in-house, salaried employee of your principal and that there was NO lobbying firm. You may use this form to renew under the same condition (that there was NO

lobbying firm). However, if this condition has changed and there is a lobbying firm, then discard this Renewal form and submit a 2014 Registration form with the required lobbying firm information.

Hammer signed this document before a notary pursuant to a declaration which read "I do solemnly swear that all the foregoing facts are true and correct to the best of my knowledge and belief." She submitted this form to the LRO and the LRO stamped the form as received on January 7, 2014. *Exhibit B at 526*

NRA's business relationship with USF

- 18. The NRA funds its legislative and executive branch lobbying efforts in Florida through payments to USF. *Hammer Aff. ¶ 5, Tab 5*
- 19. Hammer's employer, Unified Sportsmen of Florida, Inc., is a corporation registered in the State of Florida and exempt from taxation pursuant to 26 U.S.C. § 501(c)(4). *Exhibit D: Excerpts of USF Tax and Corporate Documents*
- 20. The minutes of the April 29, 2019, meeting of the Board of Directors of the NRA reflect that the NRA provides financial assistance to USF in the form of "legislative assistance grants" to "actively and aggressively promote and advance the legislative mission and goals of NRA/ILA in Florida for the purpose of protecting and supporting law-abiding firearm owners' Second Amendment rights." These minutes describe the annual dollar figures of this financial assistance to USF as:

NRA Disclosures of Payments to USF for Lobbying			
Year	Sum	Year	Sum
2000	\$120,000	2010	\$216,000
2001	\$140,000	2011	\$216,000
2002	\$180,000	2012	\$216,000
2003	\$180,000	2013	\$216,000
2004	\$180,000	2014	\$216,000
2005	\$180,000	2015	\$216,000
2006	\$180,000	2016	\$216,000
2007	\$180,000	2017	\$216,000
2008	\$180,000	2018	\$216,000
2009	\$192,000	2019	\$36,000

Exhibit E: NRA Board Meeting Minutes 2019 at 560

- 21. These annual grants by NRA to USF are to "maintain a full-time office and staff near the Florida Capitol, where all the necessary services are provided to run a successful state lobbying operation." *Exhibit E at 560*
- 22. The NRA funds grants pursuant to applications by the [Unified] Sportsmen of Florida, including for lobbying activities. *Frazer Interrogatory Response No. 4, Tab 6*

A4

23. Beginning in 2015, the system of record for the submission and recording of lobbyist registrations and compensation reports was through the electronic filing system. The Lobbyist Registration and Compensation Reporting System (LRCRS) is an online application which consists of the electronic registration system and the electronic filing system. *Rule 1.1(2)(f) and 1.2(1), Joint Rules (2014), Tab 4*
24. After logging in to the electronic filing system with a secure user name and password, the lobbyist must identify which body or bodies for which they wish to register, provide the name, address, phone number, and email address of the principal they represent. On the bottom of the same page is a button labeled "Associate A Firm" next to text which reads:
How do I know if I need to associate a lobbying firm with my registration? A lobbying firm is an association, corporation or any other business entity, including an individual contract lobbyist that receives any compensation for lobbying. Most lobbyists will need to associate one or perhaps more lobbying firms. If a registered lobbyist is an employee of an entity that does not derive compensation from principals for lobbying, do not associate your entity as a lobbying firm. Likewise, if a registered lobbyist is a state agency employee, do not associate the state agency as a lobbying firm.
- Exhibit F: LRCRS Electronic Form at 597*
25. The National Rifle Association of America is an organization exempt from taxation pursuant to 26 U.S.C. § 501(c)(4). *Exhibit G: Excerpt of NRA Form 990 2017*
26. Hammer is not aware of any payments from the NRA to anyone other than USF for the purposes of lobbying in the state of Florida. *Hammer Aff. ¶ 5, Tab 5*

Hammer's individual business relationship with the NRA

27. Hammer provides general consulting services to the NRA through a contract executed in her individual capacity. *Hammer Aff. ¶ 8, Tab 5*
28. The minutes of the September 8-9, 2018, meeting of the Board of Directors of the NRA reflect that the NRA had engaged Marion Hammer for several years as a consultant due to "her unique experience and celebrated accomplishments over decades of service as a lobbyist for Second Amendment rights in Florida." The NRA determined that an increase in the annual consulting fee it paid Hammer, from \$168,000 to \$220,000, would be appropriate because "no other available individual possesses comparable knowledge and competencies in Ms. Hammer's field." *Exhibit H: NRA Board Meeting Minutes 2018 at 564*
29. Hammer asserts that this contract for consulting services between her and the NRA *does not include* any services which would be described as lobbying or governmental affairs activities in the State of Florida as those terms are defined in the Joint Rules of the Florida Legislature. *Hammer Aff. ¶ 8, Tab 5*

30. Hammer asserts that the only compensation she receives for lobbying in the State of Florida on behalf of the NRA is her salary from USF. *Hammer Aff.* ¶ 11, Tab 5
31. Although requested, Hammer has not produced a copy of her contract with the NRA citing a confidentiality clause in the terms therein. Instead, she allowed for inspection of the contract. The undersigned read the current contract on August 14, 2019, at the Coates Law Firm, PL.
32. Documents and records may be inspected when authorized by the President of the Senate or the Speaker of the House of Representatives. *Rule 1.7(2) Joint Rules (2018)*, Tab 2
33. The services described in section one of the contract, titled "Services," for the term January 1, 2018, through December 31, 2019, *do not include* influencing or attempting to influence legislative action or non-action through oral or written communication with a member or employee of the Florida Legislature or influencing or attempting to influence legislative action or non-action through an attempt to obtain the goodwill of a member or employee of the Florida Legislature. The services described were to provide advice and consultation to the NRA Executive Vice President and the NRA/ILA Executive Director on various subjects including media and legislation.
34. John Frazer, Secretary and General Counsel of the NRA, provided responses to interrogatories regarding the business relationship between Hammer and the NRA. *Frazer Interrogatory Responses*, Tab 6
35. Frazer confirmed the existence of a consulting contract between the NRA and Hammer in her individual capacity. Frazer provided the following to describe the services provided pursuant to that contract:

The Consultant will perform services in the form of advice, analysis and other duties reasonably assigned by the Executive Vice President of the NRA and Executive Director/ILA including providing information, advice and counsel on legislation, initiative, referenda, election, communication and media matters and other related services as may be requested by the NRA or NRA/ILA. Consultant will not work under the day-to-day direction and control of the NRA in the performance of services.

Frazer Interrogatory Response No. 2, Tab 6
36. In response to whether the NRA provided or provides any compensation to Hammer for lobbying the Florida Legislature-- pursuant to a contract with her individually, Frazer referred to the contract language he provided in the previous response. Frazer further responded that "[q]uestions regarding the scope of services provided by Ms. Hammer under these Contracting Agreements should be addressed to Ms. Hammer's counsel." *Frazer Interrogatory Response No. 3, Tab 6*
37. The NRA Report of the Secretary to the Annual Meeting of Members states that Article IV, Section 2 of the NRA Bylaws (2017) require the NRA Secretary to report business transactions in which entities led by NRA Board members, officers, or employees

received payments in excess of \$2,000 for goods and services provided to the NRA.
Exhibit I: NRA Reports of the Secretary at 555 & Hammer Aff. ¶ 9, Tab 5

38. Hammer has been a member of the NRA Board of Directors since 1982 and transacts business with the NRA in excess of \$2,000 per year. *Hammer Aff. ¶ 7, Tab 5*
39. Pursuant to NRA bylaws, Hammer submits a letter to the NRA Secretary each year reporting the sums she received. *Hammer Aff. ¶ 10, Tab 5*
40. From disclosure years 2005 to 2013, and 2016 through 2017, these disclosure letters to the NRA from Hammer are written on USF letterhead, and describe Hammer as Executive Director of USF. For disclosure year 2014, Hammer describes herself as Executive Director of USF but the text is not written on USF letterhead. A letter from Hammer to the NRA for disclosure year 2015 was not provided. *Exhibit J: Hammer Disclosure Letters to the NRA 2006-2018*
41. The sum described in Hammer's annual disclosure letter is the amount received by Hammer individually pursuant to the contract with the NRA for general consulting services. The sum does not include any amount paid to USF by the NRA. *Hammer Aff ¶ 10, Tab 5*
42. The sums disclosed in Hammer's annual disclosure letters to the NRA, pursuant to NRA bylaws, are as follows:

Payments Hammer Reported She Received from the NRA		
Reporting Year	Date of Letter	Sum Reported
2005	May 3, 2006	\$122,000
2006	February 23, 2007	\$122,000
2007	January 18, 2008	\$122,000
2008	December 15, 2008	\$122,000
2009	December 28, 2009	\$122,000
2010	December 21, 2010	\$122,000
2011	December 5, 2011	\$122,000
2012	December 3, 2012	\$122,000
2013	December 3, 2013	\$122,000
2014	December 16, 2014 (unsigned)	\$197,000
2015	Not available	---
2016	January 17, 2017	\$256,000

2017	December 11, 2017	\$184,000
2018	December 16, 2018 (unsigned)	\$270,000

Exhibit J

43. From 2010 through 2017, the NRA Report of the Secretary to the Annual Meeting of Members reported that Hammer was a member of the Board of Directors who had done business with the NRA in excess of \$2,000. Specifically that “Ms. Marion Hammer, Executive Director of Unified Sportsmen of Florida, did business with the NRA in the amount of [...]” *Exhibit I at 542-552*
44. From 2010 through 2017, the language regarding Hammer in the NRA Report of the Secretary to the Annual Meeting of Members was nearly identical to the language used in Hammer’s annual disclosure letters. *Compare Exhibit I at 542-552 & Exhibit J at 534-540*
45. The NRA Reports of the Secretary to the Annual Meeting of Members dated May 5, 2018, and April 27, 2019, both note that the NRA Bylaws were amended by vote of the membership in 2017. *Exhibit I at 553 & 555*
46. The language used to describe Hammer’s relationship with the NRA changed between 2017 and 2018. The NRA Report of the Secretary to the Annual Meeting of Members dated May 5, 2018, reported that Hammer was either a member of the Board of Directors or NRA staff who had received payments from the NRA for goods and services in excess of \$2,000. Specifically that “Ms. Marion Hammer, Executive Director of Unified Sportsmen of Florida, received \$134,000² for legislative lobbying in Florida.” *Exhibit I at 553*
47. The NRA Report of the Secretary to the Annual Meeting of Members dated April 27, 2019, reported that Hammer was either a member of the Board of Directors or NRA staff who had received payments from the NRA for goods and services in excess of \$2,000. Specifically that “Ms. Marion Hammer, Executive Director of Unified Sportsmen of Florida, received \$270,000 for consulting services and legislative lobbying in Florida.” *Exhibit I at 555*
48. The language used to describe Hammer’s relationship with the NRA in Hammer’s annual disclosure letters remained the same from 2005 through 2017. *Exhibit J at 529-540*
49. Hammer was unaware of the change in the language used to describe her services until the inception of this investigation. She contacted NRA Secretary John C. Frazer and one of Frazer’s staff members, Mark Ness, regarding the change. Although Ness indicated to Hammer he changed the description, and Frazer indicated he was ultimately responsible for the description, the NRA did not provide Hammer with a written statement regarding

² Hammer’s annual disclosure letter to the NRA, Bates No. 540, reports that she did business in the amount of \$184,000.

AS

the change in the description of Hammer's business relationship. *Exhibit K: Hammer Statement re NRA Disclosures*

ANALYSIS

By filing lobbyist registrations, Hammer has acknowledged that she is a lobbyist as that term is defined by Rule 1.1(2)(e) with respect to USF and the NRA. Therefore, this analysis will address whether a lobbying firm should have been identified, and which, if any, entity or entities acted as a lobbying firm.

1. Does Hammer represent the identified principals before the Florida Legislature in association with a lobbying firm?

With regard to her representation of the NRA before the Florida Legislature, Hammer does provide those lobbying services in association with a lobbying firm.

Hammer represents two principals as a lobbyist before the Legislature. The first principal, USF, is also her employer by whom she is principally employed to lobby. With regard to only the relationship between USF as principal and Hammer as lobbyist, no lobbying firm would need be associated. In other words, *if her employer were Hammer's only principal, she would not be required to associate a lobbying firm.* The only compensation the lobbyist derives from her principal are the wages she receives directly from that principal, there is no business entity, which could include a contract with the lobbyist individually, between the principal and the lobbyist. The definition of "lobbyist" may include employees of a principal, but the direct employment of lobbyists does not indicate that the principal is also a "lobbying firm" *unless* that entity also derives compensation from principals for lobbying. With regard to the representation of USF as principal, USF *does not* appear to derive compensation in exchange for that service.

However, USF is not the only principal Hammer represents. The second principal Hammer represents as a lobbyist is the NRA. Hammer is not an employee of the NRA. The

NRA provides financial compensation to USF in exchange for the promotion and advancement of the NRA's legislative mission, which USF then provides through its employee, Hammer. Therefore, with regard to the relationship between the NRA as principal and Hammer as lobbyist, USF *does* act as a lobbying firm as that term is defined in rule and statute and must be associated on Hammer's lobbyist registration.

Hammer's lobbyist registration for USF is in compliance with Joint Rule 1.2. Hammer's lobbyist registration for the NRA is not in compliance with Joint Rule 1.2 and must be amended to reflect that this representation is in association with a lobbying firm, USF.

2. Does Hammer, in her individual capacity, act as a lobbying firm?

Though Hammer is an independent contractor with the NRA, this contract does not create a principal-lobbying firm relationship as defined by the Joint Rules of the Florida Legislature.

As stated above, USF acts as a lobbying firm in that it is a business entity which receives compensation to provide, through an employee, lobbying services for a Principal. The definition of "lobbying firm" in Joint Rule 1.1(1)(d) may also include an individual contract lobbyist if they receive or become entitled to receive compensation for the purpose of lobbying and where any partner, owner, officer, or employee of the business entity is a lobbyist. The rule recognizes an individual contract lobbyist as a type of business entity which may be considered a lobbying firm. In those cases, the lobbyist could be said to be any or each of a "partner, owner, officer, or employee" of that entity.

It is not disputed that Hammer, in her individual capacity, does business with the NRA pursuant to a contract *in addition to* the Florida lobbying services she provides as an employee of USF. At issue, is whether that business includes activities which would be considered lobbying

as defined by rule. The available evidence indicates Hammer *is not* an individual contract lobbyist with regard to the NRA.

The NRA presently contracts with Hammer in her individual capacity for consulting services other than influencing or attempting to influence legislative action or nonaction by the Florida Legislature. Hammer and the NRA have provided sworn statements that the contract does not describe lobbying services on its face. Hammer has further sworn that the contract agreements do not secure Florida lobbying activities in practice. Therefore, any compensation exchanged *pursuant to that contract* would be outside the purview of the Joint Rule and would not invoke any reporting requirements. There is no requirement for Hammer to identify herself as an independent contract lobbyist acting as a lobbying firm nor is there a requirement that Hammer report and disclose the compensation the NRA provides pursuant to this contract.

Based on the available evidence, the NRA Reports of the Secretary to the Annual Meeting of Members dated May 5, 2018, and April 27, 2019, are incorrect, but only in that the sum, the entity, and the description of the services provided are mismatched. As described above, the NRA paid Hammer \$184,000 and \$270,000 in 2017 and 2018 for *consulting services* pursuant to a contract. The NRA also, however, paid USF, whose Executive Director is Hammer, \$216,000 in 2017 and 2018 for *legislative lobbying in Florida* pursuant to legislative assistance grants.

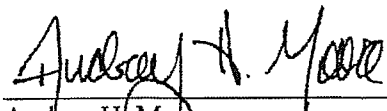
CONCLUSION

Marion Hammer's quarterly lobbyist registrations with regard to her lobbying on behalf of the NRA before the Florida Legislature, filed from 2006 to present, are not in compliance with Joint Rule 1.2. Hammer must therefore amend those registrations to reflect that such representation was in association with a lobbying firm, namely Unified Sportsmen of Florida.

These amendments must be made for at least the previous four years, in accordance with the record retention requirements described in Joint Rule 1.7.

Consequently, Unified Sportsmen of Florida must file the quarterly compensation reports required of lobbying firms in compliance with Joint Rule 1.4. These quarterly compensation reports must be filed for at least the previous four years, in accordance with the record retention requirements described in Joint Rule 1.7.

RESPECTFULLY SUBMITTED August 23, 2019.



Audrey H. Moore,
Florida Bar No. 065361
General Counsel
Office of Legislative Services
The Florida Legislature

EXHIBIT B

EXHIBIT B

Unified Sportsmen of Florida - Firm Detail

[Back to list](#)

This report was submitted to the Lobbyist Registration Office on 8/13/2019 10:05:57 AM Eastern Time.

Reporting Period

January 01, 2018 - March 31, 2018 Executive Branch Lobbying

Firm Information

Unified Sportsmen of Florida
 PO Box 1387
 Tallahassee, Florida 32302
 (850) 222-9518

Firm Lobbyist

Hammer, Marion P.

Principals and Compensation

Principal	Information	Compensation
National Rifle Association	110-A S Monroe St Tallahassee FL 32301 850-222-9518	\$10,000.00 - \$19,999.00
Unified Sportsmen of Florida	PO Box 1387 Tallahassee FL 32302 850-222-9518	\$0.00

Prime Contractor Firms

Prime Contractor Firm	Firm Information	Operating Principal	Principal Information
-----------------------	------------------	---------------------	-----------------------

Total Compensation

Total Compensation: \$1.00 to \$49,999.00

Certification

I hereby certify to the veracity and completeness of the information herein; that no reportable compensation has been omitted; and that no officer or employee of this lobbying firm has made an expenditure in violation of Section 112.3215, F.S.

Officer Marion P. Hammer, Officer

Back to list

Contact Us

Lobbyist Registration Office
 111 West Madison Street Room G68
 Tallahassee, Florida 32399
 Phone: (850) 922-4990
 FAX: (850) 921-5345
help@floridalobbyist.gov (mailto:help@floridalobbyist.gov)

Related Websites

- [myfloridahouse.gov](http://www.myfloridahouse.gov/) (http://www.myfloridahouse.gov/)
- [flsenate.gov](http://www.flsenate.gov/) (http://www.flsenate.gov/)
- Commission on Ethics (http://www.ethics.state.fl.us/)
- Online Sunshine (http://www.leg.state.fl.us/)
- NAICS Codes (http://www.naics.com/search/)
- Public Service Commission Nominating Council (PSCNC) (http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=index.cfm&Directory=committees/joint/pscnc/&Tab=committees/)

B2