

**New York Temporary State Commn. on
Lobbying v Crane**

2007 NY Slip Op 30795(U)

January 19, 2007

Supreme Court, Albany County

Docket Number: 0009782/0071

Judge: Joseph C. Teresi

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STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

NEW YORK TEMPORARY STATE
COMMISSION ON LOBBYING,

Petitioner,

-against-

**DECISION
and ORDER
INDEX No. 978-07
RJI No. 01-07-088264**

JAMES B. CRANE, II,

Respondent.

Supreme Court Albany County, All Purpose Term, March 16, 2007
Assigned to Justice Joseph C. Teresi

APPEARANCES:

Hon. Andrew Cuomo, Esq.
Attorney General of the State of New York
Attorneys for Petitioner
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Albany, NY 12210

TERESI, J.:

Petitioner, the New York Temporary State Commission on Lobbying, moves to enforce a subpoena duces tecum and ad testificandum served upon Respondent James B. Crane, II, individually and in his capacity as a participant in the lobbying firms of Crane & Vacco, LLC, Powers, Crane & Company, LLC, and Crane Consulting Group, LLC. Respondent cross-moves

to quash the subpoena duces tecum and ad testificandum and to order an evidentiary hearing and discovery for the purpose of establishing the misconduct and bad faith of the Commission's Executive Director David M. Grandeau.

The subpoena was issued on July 21, 2006 pursuant to the Commission's authority set forth in Legislative Law §§ 1-d(c)(2) and 1-d(c)(2-s), and sought to compel Respondent's testimony and the production of documents on or before September 11, 2006. Respondent has not appeared for a deposition or produced any of the requested documents.

After full review of the record, the court will grant Petitioner's motion to enforce a subpoena duces tecum and ad testificandum served upon Respondent James B. Crane, II, and deny Respondent's cross-motion to quash the subpoena and deny Respondent's cross-motion to order an evidentiary hearing and discovery regarding the questionable actions of Mr. Grandeau.

During its investigation into Respondent's lobbying activities, Petitioner allegedly discovered that numerous reporting discrepancies were incurred in the course of lobbying and that Respondent did not report different lobbying activities in its Bi-Monthly Report filed with the Commission. Furthermore, Petitioner allegedly needs Respondent's testimony and his production of documents in order to complete a random audit of certain activities of Powers, Crane & Company, LLC.

Respondent accuses Mr. Grandeau of pursuing the subpoenas out of a vendetta that he holds against the Respondent. However, although suspect, this accusation is irrelevant to the issue of whether or not the subpoena is enforceable because the Commission may proceed as long as the "books and papers called for have some relevancy and materiality to the matter under investigation." Matter of Temporary Commission of Investigation of the State of New York v. French, 68 A.D.2d 681, 687 (1st Dep't 1979) (citing Carlisle v. Bennett, 268 N.Y. 212, 217

(1935). Here, the subpoena seeks information that is relevant and material in order to verify allegations that Respondent violated provisions of the Lobbying Act.

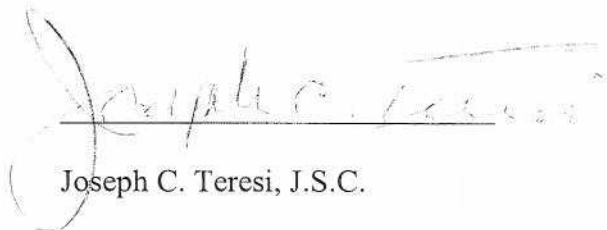
The court will grant Petitioner's motion to enforce the subpoena, deny Respondent's cross-motion to quash the subpoena, and deny Respondent's cross-motion to order an evidentiary hearing and discovery regarding Mr. Grandeau's conduct.

All papers, including this Decision and Order are being returned to the attorneys for the Petitioner. The signing of this Decision and Order shall not constitute entry or filing under CPLR 2220. Counsel are not relieved from the applicable provisions of that section respecting filing, entry and notice of entry.

So Ordered.

Dated: April 11, 2007

Albany, New York



Joseph C. Teresi, J.S.C.

Papers Considered:

1. Petitioner's Affirmation of Ralph P. Miccio with Exhibits 1 through 8, dated January 19, 2007;
2. Petitioner's Affirmation of David M. Grandeau with Exhibits A through FF, dated January 23, 2007;
3. Petitioner's Affirmation of James B. McGowan, Esq., dated January 26, 2007;
4. Petitioner's Order to Show Cause, dated January 29, 2007;
5. Petitioner's Affirmation in Reply and in Opposition to Cross Motion of David M. Grandeau with Exhibits 1 and 2, dated March 16, 2007;
6. Respondent's Affirmation of James B. Crane, II with Exhibits A through D, dated March 9, 2007;
7. Respondent's Notice of Cross Motion dated March 9, 2007;
8. Affirmation of William J. Dreyer with Exhibits A and B and 1 through 9, dated March 9, 2007;

9. Affidavit of Christopher Duryea, dated March 9, 2007;
10. Affidavit of Constance K. Crane, dated March 9, 2007;