

# O'Mara's law post draws new scrutiny

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*Sen. Thomas O'Mara, R-Big Flats, is a partner at Hiscock & Barclay, a major New York City law firm. The firm maintains a lengthy client list that includes energy companies and real-estate developers.*



(Photo: (File photo / Star-Gazette))

ALBANY – Hiscock & Barclay, a major New York law firm, maintains a lengthy client list that includes energy companies and real-estate developers whose work can be helped or hindered by state environmental laws.

The firm also lists a key lawmaker as one of its partners: Sen. Thomas O'Mara, an Elmira-area Republican who chairs the state Senate Environmental Conservation Committee.

At a time when state lawmakers' outside income has drawn increased scrutiny, O'Mara's employment with the powerful law firm has raised questions among government-reform advocates and environmental lobbyists looking to get bills through his committee. The firm has aided efforts in support of hydraulic fracturing, as well as lobbied to extend lucrative tax breaks for the redevelopment of polluted properties.

O'Mara, however, said his personal clients do not have any business before the state and that he doesn't share in the firm's profits from its state-related work. He defended his partnership with the firm and maintained it has no influence on his actions in the Senate.

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"I'm careful not to undertake any actions or share in any proceeds that have to do with any issues before the state," O'Mara said in an interview with Gannett's Albany Bureau. He has not been approached by the firm's lobbyists since he joined as a partner, O'Mara said.

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Blair Horner, legislative director of the New York State Public Interest Research Group, said recent scandals surrounding prominent lawmakers at the state Capitol should have legislators on high alert.

In January, then-Assembly Speaker Sheldon Silver, D-Manhattan, was arrested on charges regarding an alleged kickback scheme involving referral fees he was receiving from a pair of New York City law firms. Earlier this month, then-Senate Majority Leader Dean Skelos, R-Nassau County, was charged with using his political power to personally enrich his son. Both have maintained their innocence.

"Given Albany's current ethical climate, out of an abundance of caution, the senator should request an opinion from the Legislative Ethics Commission on how he should balance his relationship with Hiscock & Barclay and his role as a public official," Horner said.

O'Mara, R-Big Flats Chemung County, has worked for Hiscock & Barclay since January 2014, [when it absorbed Davidson & O'Mara \(http://www.hblaw.com/news/Hiscock--Barclay-Expands-NYS-Platform-by-Combining-with-Davidson--OMara-in-the-Southern-Tier-01-07-2014\)](http://www.hblaw.com/news/Hiscock--Barclay-Expands-NYS-Platform-by-Combining-with-Davidson--OMara-in-the-Southern-Tier-01-07-2014), a seven-attorney, Elmira-based firm his father co-founded in 1977. He said he has not sought an ethics opinion on his dual roles and that the firm hasn't lobbied him personally since becoming committee chair.

In January 2015, O'Mara — whose district includes the cities of Elmira and Ithaca — became the Senate's authority on environmental issues, a key position that occasionally intersects with the energy industry. The previous committee chairman, Buffalo Sen. Mark Grisanti, was defeated by a Democrat in November.

Hiscock & Barclay's website lists 210 attorneys — including O'Mara and his father, John — practicing a broad array of legal work, such as energy, environmental, immigration, election and oil-and-gas law. The firm, which has branches across the state, including in Buffalo and Rochester, employs three state lawmakers: O'Mara; Sen. Neil Breslin, D-Bethlehem, Albany County; and Assemblyman Will Barclay, R-Pulaski, Oswego County.

A review of state lobbying records shows the firm and its subsidiary, Empire Advocates, represent 18 clients who have lobbied or intend to lobby government officials in New York in 2015 and 2016.

Among them is the New York State Superfund Coalition, a not-for-profit corporation that first registered with the state in 1987.

The group was organized by a Hiscock & Barclay attorney and was originally comprised of "multi-national manufacturers, large transporters and other businesses that owned properties designated as 'Superfund' sites in New York," [according to the law firm's website. \(http://www.hblaw.com/case-studies/united-clients-push-back-against-regulatory-overreach\)](http://www.hblaw.com/case-studies/united-clients-push-back-against-regulatory-overreach)

The coalition paid the firm \$7,880 to lobby Gov. Andrew Cuomo's staff and the state Senate in March and April on the Brownfield Cleanup Program, a lucrative state tax break for developers who clean up and redevelop polluted properties in New York.

At the time, Cuomo and lawmakers were negotiating reforms to the soon-to-expire Brownfield program as part of the state's \$142 billion budget. Ultimately, they [agreed to a 10-year extension \(http://www.ithacajournal.com/story/news/local/2015/04/02/brownfield-environmental-cleanup-extension-new-york-budget/70858298/\)](http://www.ithacajournal.com/story/news/local/2015/04/02/brownfield-environmental-cleanup-extension-new-york-budget/70858298/) that included a number of changes meant to crack down on abuse of the program, which drew cautious praise from both environmental and business groups.

The budget also designated \$100 million for a 10-year extension of the state Superfund, a program used to encourage cleanup of some of the state's most-polluted sites.

O'Mara said he was involved in the state's talks over the continuation of the Brownfield program, though he said the negotiations were largely carried out by the Senate's staff. He said he was not lobbied by Hiscock & Barclay, which is headquartered in Syracuse, and had no contact with the Superfund Coalition.

"They didn't lobby me," O'Mara said. "I wasn't even aware of that client of the firm, and I'm afraid that I couldn't even tell you what their position was in terms of the Brownfield program extending or not extending. What changes they may or may not have wanted, I have absolutely no knowledge of."

Thomas Walsh, who is listed as the coalition's lobbyist, did not return a call or email seeking comment, and calls to Hiscock & Barclay's Albany office were not returned.

O'Mara said his private legal clients largely hail from the Elmira area, and he said his legal work hasn't changed since Hiscock & Barclay acquired Davidson & O'Mara.

On his 2013 disclosure form, O'Mara reported receiving between \$50,000 and \$75,000 from Davidson & O'Mara, along with a deferred compensation plan worth \$100,000 to \$150,000. His work focused on "commercial transactions, finance, real estate and civil litigation," according to the disclosure.

The state constitution considers lawmakers part-time, allowing them to collect outside income from private employers. About half of the state's 213 lawmakers reported some private income on their financial disclosure forms in 2013, the most-recent year available.

O'Mara said he has not obtained an opinion from the ethics commission, which advises lawmakers on the state's ethics laws and avoiding conflicts of interest.

"I don't believe it's necessary," he said. "I take my own steps to ensure, as I said, my practice is not involved in those issues. It's a large law firm with a lot of attorneys and a lot of clients that I have no dealings with and frankly no knowledge of."

Environmental lobbyists, meanwhile, are focusing on a handful of bills they're hoping to get through O'Mara's committee before the end of the year, including a measure that would ban certain chemicals from being included in children's toys. The bill is currently sponsored by nine of the environmental conservation committee's 13 members, though it's uncertain if it will be put to a vote, and O'Mara is not a sponsor.

"We always seem to be fighting an uphill battle on environmental policy in the state Senate," said Peter Iwanowicz, executive director of Environmental Advocates of New York.

Hiscock & Barclay's clients include supporters of hydraulic fracturing for natural gas, the controversial process used to help extract gas from underground formations like the Marcellus Shale.

The firm's subsidiary, Empire Advocates, has lobbied on behalf of the Joint Landowners Coalition of New York, a Binghamton-based group in favor of fracking. Hiscock & Barclay attorneys, meanwhile, have helped craft comments for the oil-and-gas industry on the state's lengthy review of the technique.

In recent years, bills that would ban or place a firm moratorium on fracking have stalled in the Senate Environmental Conservation Committee. The bills, however, now may be moot: Cuomo's administration has vowed to prohibit large-scale fracking from moving ahead in New York.

O'Mara's support of fracking long predates his start with Hiscock & Barclay and his elevation to committee chair.

In [an interview with The Central New York Business Journal \(http://issuu.com/thebusinessjournal/docs/012414\\_flip/8\)](http://issuu.com/thebusinessjournal/docs/012414_flip/8) shortly after absorbing Davidson & O'Mara in January 2014, Hiscock & Barclay managing partner John Langan cited natural-gas development as a reason for looking to expand to the Elmira area. The interview was prior to Cuomo's administration announcing its plans to prohibit fracking.

"Elmira is positioned (just) five miles from the Pennsylvania border where pipeline and drilling companies are extracting and transporting natural gas," Langan said, according to the publication. "(In addition), the activity in energy boosts our environmental and other practices. Elmira also puts us in a strong position if and when New York state lifts its ban on fracking."

The state Assembly, meanwhile, also named a new chair of its environmental conservation committee in January. Assemblyman Steven Englebright, D-Suffolk County, took over as head of the committee following the retirement of longtime chair Robert Sweeney, D-Suffolk County.

Englebright's 2013 disclosure form shows he had invested in the natural-gas-drilling boom in Texas. The lawmaker reported owning a 50 percent stake in a pair of hydraulically fractured units in Texas' Barnett Shale, as well as a 10 percent stake in a Kansas oil redevelopment.

In an interview, Englebright said he made the investments around 2006 -- two years before drillers began seeking permits to tap into New York's portion of the Marcellus Shale. He said the gas-extraction process was made out to be a "wholesome investment" at the time, but that he's since come to regret the investments as he began to learn more about fracking.

Englebright said the two Texas wells have since ceased production, and that he ultimately lost money on the venture. The Kansas project he invested in was recently sold by its majority owners, though the accounting of the sale is still being processed, Englebright said.

"I began regretting making that investment as I learned more about it," he said. "You'll see that I haven't continued to invest in that direction, and in fact I've disinvested."

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What's at stake?

- Sen. Thomas O'Mara, R-Big Flats, Chemung County, is a partner at Hiscock & Barclay, a 210-attorney firm that counts energy companies and real-estate developers among its clients.

- O'Mara says the firm's clients, some of which can be helped or hindered by state environmental laws, have no effect on his work in the Senate and the firm hasn't lobbied him directly.

- Environmental groups say they're hoping to get a handful of bills, including the Child Safe Products Act, through O'Mara's committee before the legislative session ends June 17.

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