



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 2

April 23, 1992

Whether a person registering as a lobbyist may report on his initial registration form the total amount of compensation that the registrant expects to receive in 1992 compensation. (AOR-1)

The Texas Ethics Commission has been asked to consider whether a person registering as a lobbyist may report on his initial registration form the total amount of compensation that the registrant expects to receive in 1992 compensation. The requestor seeks to report the total amount of 1992 compensation that he expects to receive in order to obviate the need to file an amended registration statement as he receives anticipated additional compensation.

A person must register under chapter 305 of the Government Code if the person:

receives compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of more than an amount determined by commission rule but not less than \$200 in a calendar quarter from another person to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

Gov't Code § 305.003(a)(2). Chapter 305 requires the registration form to be verified and it must contain, among other things:

the amount of compensation or reimbursement *paid* by each person who reimburses, retains, or employs the registrant for the purpose of communicating directly with a member of the legislative or executive branch or on whose behalf the registrant communicates directly with a member of the legislative or executive branch.

Id. § 305.005(f)(6) (emphasis added). Section 305.005(f)(6) requires the registrant to disclose the amount of compensation "paid." It is the commission's opinion that the legislature intended all persons who register pursuant to chapter 305 to list the compensation or reimbursement received by the registrant on the registration and renewal form by amounts received, not "prospective" or "anticipated" amounts, even if known. The Ethics Commission has adopted rule 10.11(a), which states:

The amount of compensation or reimbursement that must be reported on the registration or registration renewal is the amount *received* by the registrant for lobby activities during the calendar year for which the registration or registration renewal is effective.

Tex. Ethics Comm'n, 17 Tex. Reg. 359 (1992) (to be codified at title 1, section 10.11(a), of the Texas Administrative Code) (emphasis added). This rule expresses the commission's interpretation that only amounts that are received are to be reported.

Whenever there is a change in the information required to be reported by a registrant on the registration form, the registrant is required to file an amended registration statement reflecting the change not later than the 10th

day of the month following the change. *See* Gov't Code §§ 305.005(k), 305.007. The legislature, recognizing the possibility of repeated amendments to lobby registrations because of frequent changes in compensation, provided a mechanism to keep the amendments at a minimum. The registrant has the choice of either reporting the amount of compensation received as an actual amount or as a category (a series of incremental ranges). Section 305.005(g) states:

Compensation or reimbursement required to be reported under Subsection (f)(6) shall be reported in the following categories unless reported as an exact amount:

- (1) less than \$10,000;
- (2) at least \$10,000 but less than \$25,000;
- (3) at least \$25,000 but less than \$50,000;
- (4) at least \$50,000 but less than \$100,000;
- (5) at least \$100,000 but less than \$150,000;
- (6) at least \$150,000 but less than \$200,000; and
- (7) \$200,000 or more.

Thus, if a registrant reports compensation or reimbursement by category, the registrant would have to amend his registration only if the total compensation or reimbursement received placed him in a higher category.

SUMMARY

A registrant filing an initial registration and renewal form under section 305.005 of the Government Code must disclose compensation actually received at that time for the year, either by actual amount or as a category amount. Anticipated compensation is not to be reported.