



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 3

April 23, 1992

Whether certain activities trigger lobby registration requirements. (AOR-2)

The Texas Ethics Commission has been asked to consider whether a judge must register with the commission as a lobbyist in a number of different situations. The first step in determining whether an individual must register as a lobbyist is to determine whether he meets either a compensation or reimbursement threshold or an expenditure threshold. Gov't Code § 305.003. We note at the outset that although an individual's status as a judge would be relevant in determining whether he fit within an exception to the registration requirement, it is not a factor in determining whether he has met one of the thresholds. *See id.* § 305.003(b); Tex. Ethics Comm'n, 17 Tex. Reg. 357 (1992) (emergency rule to be codified at title 1, section 10.1, of the Texas Administrative Code). Thus, our discussion of the thresholds is not specific to someone who is a judge, but would apply to any individual.

In order to meet the expenditure threshold, a person must expend more than \$200 in a calendar quarter on lobby activities described in section 305.006(b) to communicate directly with one or more members of the legislative or executive branch. That communication must be to influence legislation or administrative action. The relevant expenditures are expenditures for

- (1) transportation and lodging;
- (2) food and beverages;
- (3) entertainment;
- (4) gifts, other than awards and mementos;
- (5) awards and mementos; and
- (6) expenditures made for the attendance of members of the legislative or executive branch at political fund-raisers or charity events.

Id. § 305.006. Excluded from the calculation are the potential registrant's own travel, food, lodging expenses, or membership dues. *Id.* § 305.003(a)(1). Because the request letter refers to no expenses other than the judge's own travel and lodging expenses, we assume that no other expenditures would be made in relation to communications with members of the executive or legislative branch. In such circumstances, a person does not meet the expenditure threshold under chapter 305 of the Government Code.¹

In order to meet the compensation or reimbursement threshold a person must receive more than \$200 in compensation or reimbursement in a calendar quarter to communicate directly with one or more members of the legislative or executive branch, and that communication must be to influence legislation or administrative action. Gov't Code § 305.003(a); Tex. Ethics Comm'n, 17 Tex. Reg. 357-58 (1992) (emergency rules to be codified at title 1, sections 10.1 and 10.3, of the Texas Administrative Code).

In regard to the compensation threshold, the request letter states that the judge in question would receive no compensation but might receive reimbursement for travel and lodging. Reimbursement for travel or lodging is

not to be considered in determining whether a potential registrant has reached the compensation threshold. Thus, the circumstances described do not require registration under the compensation threshold.

In summary, if a person meets neither the expenditure threshold nor the compensation threshold under chapter 305 of the Government Code, that person is not required to register as a lobbyist, regardless of the content of his communications with members of the legislative or executive branch.

SUMMARY

A person who communicates with a member of the executive or legislative branch of state government is not required to register as a lobbyist under chapter 305 of the Government Code if the person makes no expenditures other than expenditures for his own travel and lodging and receives no compensation other than reimbursement for his own travel and lodging.

¹ Because the judge does not meet either registration threshold in the situation described, it is not necessary to consider the application of section 305.003(b), which states that the compensation threshold is not applicable to an officer of a political subdivision of the state, or the application of title 1, section 10.1, of the Texas Administrative Code (emergency rule published at 17 Tex. Reg. 357), which indicates that the expenditure threshold is not applicable to an officer or employee of a governmental entity.