



# TEXAS ETHICS COMMISSION



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## ETHICS ADVISORY OPINION NO. 55

*September 10, 1992*

*Whether the Texas Ethics Commission may waive a fine for failure to file a monthly activity report if the error was unintentional. (AOR-55)*

The Texas Ethics Commission has been asked whether the commission may impose a fine or waive a fine for failure to file a monthly activity report in specific circumstances. In registering as a lobbyist, the requestor did not select "modified reporting." A registrant who does not intend to make reportable lobby expenditures of more than \$1000 during a calendar year may select "modified reporting," which permits annual, rather than monthly, activity reports. Gov't Code § 305.0063. Because the requestor did not do so, he was required to file monthly reports. When he did not timely file his first monthly report, commission staff notified him that he was liable for a \$100 penalty. *Id.* § 305.033; Tex. Ethics Comm'n, 17 Tex. Reg. 4446 (1992) (to be codified at title 1, section 40.29, of the Texas Administrative Code). The requestor states that his failure to select modified reporting was "inadvertent and unintentional."

Presumably many errors in registration and reporting are inadvertent and unintentional. Such errors may nonetheless be the basis for a fine. A statement that an omission that led to a failure to file a report on time is "inadvertent and unintentional" is not, standing alone, a sufficient basis for waiver of a penalty. Therefore the requestor is subject to a fine for failure to file a report on time.<sup>1</sup>

### SUMMARY

A statement that an omission that led to a failure to file a lobby report on time is "inadvertent and unintentional" is not, standing alone, a basis for waiver of a fine.

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<sup>1</sup> The requestor states that after he registered as a lobbyist, the commission issued an advisory opinion concluding that the registrant's activities did not in fact require registration as a lobbyist. The requestor then terminated his lobby registration. *See* Gov't Code § 305.008 (Vernon 1988) (a person who ceases to engage in lobby activity is required to terminate his registration). A person who chooses to register as a lobbyist is a "registrant" and subject to various requirements of the act. [Ethics Advisory Opinion No. 53](#) (1992). The commission will not refund registration fees or excuse fines on the grounds that a person's registration was not actually necessary in the first place.