

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)
)
 Opinion requested by) No. 75-078-A
 Atlantic-Richfield Company) October 23, 1975
 _____)

BY THE COMMISSION: We have been asked the following question by the Atlantic-Richfield Company:

In some cases, Company employees do not know, at this time, whether they will be spending the requisite number of hours in lobbying activities to meet the "substantial or regular" test of the Political Reform Act. If it becomes apparent that these people are spending sufficient time engaging in lobbying activities, they will, of course, register.

If, however, an employee registers in March, for example, need the hours, expenses, etc. spent in January and February be reported? If so, is it adequate to show them in the cumulative column on page one of the Lobbyist Report (Form 620) and the Lobbyist Employer Report (Form 650)?

CONCLUSION

The first reports filed by the lobbyist employer must cover all of the activities of the lobbyist for the month in which the employee first qualified or registered as a lobbyist. Therefore, in the example provided, only the hours, expenses and payments made in March need be reported if the lobbyist qualified during that month.

ANALYSIS

Lobbyists and lobbyist employers are required to file periodic reports describing their activities to influence legislative and administrative action and payments in support

of such activities. 1/ Section 86110 specifies the times when such periodic reports must be filed, stating that

Reports required by Sections 86107 and 86109 shall be filed during the month following each month during any part of which the Legislature was in session and during the month following each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the month prior to the month during which the report is filed, except that the period covered shall not include any months covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire calendar year to date.

The Commission has clarified in a regulation the meaning of this section as it applies to persons who qualify as lobbyists during a calendar year. 2 Cal. Adm. Code Section 18615(a)(7)(B) states:

The first report of a person filing pursuant to Government Code Section 86107 shall be due during the month following the first month during which such person registers or qualifies as a lobbyist pursuant to Government Code Section 82039 and any applicable regulation adopted by the Commission, and shall cover all the activities of the lobbyist for the month in which he first registered or qualified.

This regulation makes it clear that a lobbyist's reporting obligations commence when the lobbyist either registers as a lobbyist pursuant to Section 86100 2/ or qualifies

1/
See Government Code Sections 86107, 86108 and 86109. All statutory references are to the Government Code unless otherwise stated.

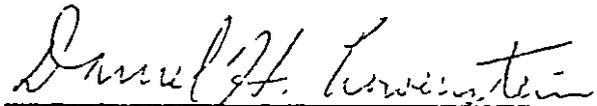
2/
Section 86100 states that "Any person employed or retained as a lobbyist shall register with the Secretary of State before doing anything to influence legislative or administrative action." It should be observed that this registration requirement is activated when a person knows he will meet the qualification criteria set forth in 2 Cal. Adm. Code Section 18239.

as a lobbyist pursuant to 2 Cal. Adm. Code Section 18239, 3/ whichever occurs first. The regulation also provides that the first report filed by a lobbyist must cover all of the lobbyist's activities for the entire month during which he first registered or qualified.

In this opinion, we adopt a parallel interpretation of Section 86110 as it applies to reports filed by lobbyist employers. When a company employee becomes a lobbyist, the first report filed by the company as a lobbyist employer shall cover the entire month during which the employee first registers or qualifies as a lobbyist.

If, therefore, an employee registers as a lobbyist in March, the first report filed by the lobbyist and the lobbyist employer will cover the period from March 1 through March 31. And the figures showing "cumulative total to date" will be the same as those showing "total this period" on the Lobbyist Report (Form 620) and the Lobbyist Employer Report (Form 650).

Approved by the Commission on October 23, 1975.
Concurring: Carpenter, Miller and Lowenstein. Abstaining:
Brosnahan. Commissioner Waters was absent.


Daniel H. Lowenstein
Chairman

3/
The term "lobbyist" is defined in Section 82039 and has been further amplified by regulation. 2 Cal. Adm. Code Section 18239 sets forth specific criteria so that a person can determine when he has come within the statutory definition of lobbyist. The criteria relative to what constitutes a "substantial or regular portion" of one's activities is based upon time spent lobbying during two consecutive calendar months. See 2 Cal. Adm. Code Section 18239(e). When a person qualifies as a lobbyist during a two-month period, the reporting requirements imposed by Sections 86107 and 86109 apply only to the second month.