



## FAIR POLITICAL PRACTICES COMMISSION

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April 4, 2000

Ed Howard  
Kornarens & Howard  
830 South Olive Street  
Los Angeles, CA 90014

**Re: Your Request for Advice  
Our File No. A-00-073**

Dear Mr. Howard:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

Are you required to take the lobbyist ethics course?

### CONCLUSION

You are under no obligation to take the lobbyist ethics course.

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<sup>1</sup> California Government Code sections 81000-91015. Commission regulations appear at title 2, sections 18109-18996, of the California Code of Regulations.

## FACTS

You registered as an "in-house" lobbyist for the Foundation for Taxpayer and Consumer Rights ("FTCR") for the 1999-2000 legislative session. On July 1, 1999, you left your position with the FTCT to open a private law practice. You stated that you have not engaged in any lobbying activities either for FTCT or any other entities even though you were registered as a lobbyist. A couple of months after leaving FTCT you were notified that you are were obligated to complete the lobbyist ethics course. Subsequent to that notice, FTCT assured you that they submitted to the Office of the Secretary of State a Form 605 "Amendment to Registration Lobbying Firm, Lobbyist Employer, Lobbying Coalition" deleting you as a lobbyist from their registration. You then contacted the FPPC and per our suggestion you submitted to the Office of the Secretary of State a Form 607 "Notice of Withdrawal." Since filing the Form 607 you have recieved a second notice indicating that you are obligated to complete the lobbyist ethics course. You are now concerned that this succession of notices will result in sanctions being imposed for failing to comply with the Political Reform Act.

## ANALYSIS

An individual must register as a lobbyist if he/she is employed or contracts for economic consideration to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which he or she receives consideration is for the purpose of influencing legislative or administrative action. (Section 82039.)

An individual who lobbies only on behalf of his/her employer is only obligated to register as a lobbyist if the individual spends one-third or more of compensated time in any calendar month engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action. (Regulation 18239.)

An individual who meets the definition of lobbyist must complete the lobbyist ethics course within 12 months of registering as a lobbyist. (Section 86103(d).)

Any person who has filed a lobbyist certification but who is not and has not been a lobbyist as defined in Government Code Section 82039 and in Regulation 18239 may withdraw the certification by filing a Notice of Withdrawal (Form 607).

An individual who does not meet the legal definition of lobbyist is under no obligation to take the lobbyist ethics course. Based on the information you have provided, you did not engage

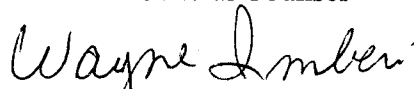
in lobbying activity, did not qualify as a lobbyist, and are, therefore, under no obligation to take the course.<sup>2</sup>

It is recommended that you contact the Office of the Secretary of State to inquire if they have received your former employer's Form 605 deleting you as a lobbyist and your Form 607. The fact that you continue to receive notices stating you are obligated to complete the course is an indication that the Secretary of State may not have received those filings.

If you have any further questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca  
Assistant General Counsel



By: Wayne Imberi  
Political Reform Consultant

cc: Secretary of State  
Assembly Legislative Ethics Committee  
Senate Ethics Committee

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<sup>2</sup> The Commission does not act as a finder of fact when it renders advice. This advice is applicable and confers immunity (see Section 83114) only to the extent that the facts provided to us are correct and that all of the material facts have been disclosed. (In re Oglesby (1975)1 FPPC Ops. 71, 77.) This advice is based on the facts provided in your March 13, 2000, letter to us and in a subsequent telephone conversation.