

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 99-EC-006 Issued May 21, 1999

ISSUE:

Whether the practices of “stacking” and “splitting” are in conformity with the intent and spirit of the Disclosure Act for Lobbyists and State and Local Officials?

BRIEF ANSWER:

If used as a technical means to avoid reporting, such practices violate both the intent and spirit of the Act. There may be situations, however, in which it would be permissible to divide the cost of lobbying expenditures.

DISCUSSION:

The Disclosure Act for Lobbyists and State and Local Officials (hereinafter the “Act”) is codified in Subchapters 4, 5 [repealed], and 6-8 of Title 21, Chapter 8 of the Arkansas Code. Subchapter 6, entitled “Disclosure by Lobbyists”, sets forth certain registration and reporting requirements which are applicable to lobbyists.

Pursuant to Section 21-8-603, registered lobbyists are required to file quarterly lobbyist activity reports concerning their lobbying activities. Lobbyists who lobby members of the General Assembly are also required to file monthly lobbyist activity reports for any month in which the General Assembly is in session.¹

Section 21-8-604 sets forth the required contents of those reports and provides, among other things, that they shall contain an itemized listing of each:

- (i) Gift² given to a public servant or on behalf of the public servant;

¹ Pursuant to Act 553 of 1999, which becomes effective July 30, 1999, “[a] quarterly report is not required if the registered lobbyist has filed monthly lobbyist activity reports for each month of the calendar quarter.”

² The term “Gift” is defined in Ark. Code Ann. § 21-8-402 (5) which excludes, among other things, “[a]nything with a value of less than one hundred dollars (\$100).” Pursuant to Act 553 of 1999, this exclusion is being changed to read “[a]nything with a value of one hundred dollars (\$100) or less.”

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- (ii) Payment for food, lodging, or travel in excess of twenty-five dollars (\$25.00)³ on behalf of a public servant; and
- (iii) Any other item paid or given to a public servant or on behalf of the public servant, except for campaign contributions, having a value in excess of twenty-five dollars (\$25.00)⁴ unless consideration of equal or greater value has been given therefor.

According to the person who requested the instant advisory opinion, lobbyists engage in the practices of “stacking” and “splitting” to avoid the foregoing reporting requirements. The terms “stacking” and “splitting” are not defined in the Act but generally describe situations in which a group of lobbyists or one lobbyist representing multiple clients divides the price of an item or food, lodging, or travel or breaks a gift into parts so that the amount spent by each lobbyist or client falls below the threshold for itemization.

As recognized in § 510 of the Commission’s Rules on Lobbyist Registration and Reporting,

[I]t is the intent of the Arkansas Ethics Commission that the public have disclosure of the contact between lobbyists and public officials and to that end, the Commission encourages lobbyists to avoid reporting through the use of technicalities or ambiguities.

Dividing the cost of lobbying expenses between lobbyists or clients for purposes of avoiding itemization violates both the intent and spirit of the Act. There may be situations, however, in which it would be permissible to divide the cost of lobbying expenditures. Due to the number of situations possible, the Commission believes that it would be appropriate to address this matter through the rule making process.

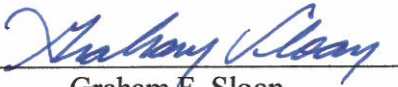
³ Pursuant to Act 553 of 1999, this reporting threshold is being increased from twenty five dollars (\$25.00) to forty (\$40.00).

⁴ Pursuant to Act 553 of 1999, this reporting threshold is being increased from twenty five dollars (\$25.00) to forty (\$40.00).

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This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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