

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by)	No. 75-094-C
State Controller Kenneth Cory)	October 1, 1975
)	

BY THE COMMISSION: We have been asked the following question by Kenneth Cory, Controller of the State of California:

If an elected state officer attends a \$100-a-plate political fundraising dinner at the invitation of the sponsors and without purchasing a ticket, does the officer incur any reporting obligations under the Political Reform Act? If, in the same situation, he is invited by the sponsors to attend the dinner for the specified purpose of making a speech, would the reporting requirement be the same?

CONCLUSION

If an elected state officer attends a political fundraising dinner at the invitation of the sponsors without purchasing a ticket, the officer has no reporting obligations under the Political Reform Act. This conclusion is not altered by the fact that the officer attends the dinner for the specified purpose of making a speech.

ANALYSIS

It is common practice for those who sponsor testimonial dinners to give free tickets to their colleagues and to other individuals whose attendance will advance the cause of the event. It is clear that these tickets are given for political purposes, particularly when the recipient is a well-known elected state officer. Moreover, the elected officer attends these dinners primarily as part of his responsibilities as an elected officer and a candidate.^{1/} Accordingly, the value of

^{1/}

See Opinion, Assemblyman Willie L. Brown, Jr., 1 FPPC Opinions 67 (No. 75-055, July 2, 1975).

the tickets should be treated as payments for political purposes, not as personal income to the public official.

Chapter Four of the Political Reform Act requires disclosure of political expenditures and receipts. Government Code Sections 84100, et seq.^{2/} Chapter Seven of the Act, on the other hand, regulates the disclosure of personal financial interests. Sections 87200, et seq. These reporting requirements are not intended to be duplicative. Consequently, campaign contributions required to be reported under Chapter 4 are specifically excluded from the definition of income, Section 82030, and are not reportable under Chapter Seven.

Since we have concluded that the value of a ticket given to an elected state official to attend a testimonial dinner should be treated as a political payment and, therefore, not as personal income, any disclosure incident to Controller Cory's attendance at such a dinner would be reported, if at all, only on campaign statements filed pursuant to Chapter Four, and not on statements filed under Chapter Seven. However, we conclude that when an elected officer attends a political fundraising dinner, he does not receive a benefit that is reportable on his campaign statement and, thus, no reporting obligation on his part is activated by the receipt of a free ticket to the dinner.

Attendance at a political fundraiser without purchasing a ticket does involve the receipt of a "payment" as that term is defined in Section 82044,^{3/} and a payment made for political purposes is a contribution. Section 82015. However, a payment is not a contribution if "full and adequate consideration" is received in exchange for the payment. Section 82015.

When Mr. Cory attends a fundraising dinner at the express invitation of the sponsor without purchasing a ticket, he has received a benefit for which others have made a monetary contribution. Although he does not make a monetary contribution in exchange for that benefit, his presence at the function does provide an intangible benefit to the candidate for whom the fundraiser is held and he, therefore, does provide some quid pro quo.

^{2/}

All statutory references are to the Government Code unless otherwise noted.

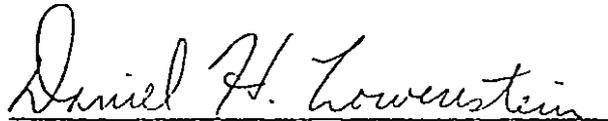
^{3/}

"Payment" means a payment ... or other rendering or money, property, services or anything else of value, whether tangible or intangible.

Of course, it is impossible to establish the precise value of Mr. Cory's presence. We will assume, however, that his presence provides "full and adequate consideration"^{4/} for the free ticket he receives.^{5/} Although ordinarily a claim of full and adequate consideration should be scrutinized to assure that a contribution is not being concealed, we assume full and adequate consideration in the present case because we do not believe that candidates, officials or the public generally regard free attendance by an elected state officer at a campaign function as involving a "contribution" in either direction. Reporting of such matters would be confusing and would not serve the purposes of the Political Reform Act. Therefore, in the circumstances posed by this opinion request, the elected state officer has no reporting obligation as a result of attendance at the political fundraising dinner.^{6/}

Our conclusion with respect to Mr. Cory's first question is also dispositive of the second question he poses. The fact that he makes a speech at a testimonial dinner may mean that in that instance he is providing additional consideration for the ticket he receives, but it does not alter our conclusion that he is providing full and adequate consideration for the ticket and, therefore, incurs no reporting obligations.

Approved by the Commission on October 1, 1975.
Concurring: Brosnahan, Lowenstein and Miller. Commissioners Carpenter and Waters were absent.


Daniel H. Lowenstein
Chairman

^{4/}
"Adequate consideration" is a term used in specific performance cases and requires a stronger showing of equal value than the usual contract standard of "good" or "valuable" consideration. Horton v. Kyburz, 52 C.2d 59 (1959). However, as the California Supreme Court observed, "adequate consideration" does not mean the highest price obtainable but a price that is "fair and reasonable under all circumstances."

^{5/}
We observe that this conclusion is limited to those situations when the elected officer receives only a free ticket to the dinner and does not apply to those situations where he receives additional payments as compensation for his attendance.

^{6/}
Of course, the cost of the meal will be reflected in the campaign statements filed by the committee which sponsors the dinner.