

## BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:	)	
	)	
Opinion requested by	)	No. 75-187
Elliott J. Dixon	)	June 1, 1976
Attorney and Counselor at Law)	)	

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BY THE COMMISSION: We have been asked the following question by Elliott J. Dixon, Attorney.

Is a lobbyist prohibited from performing volunteer personal services for a state candidate or elected state officer?

## CONCLUSION

A lobbyist may perform "volunteer personal services" on behalf of a state candidate or elected state officer so long as, while doing so, he does not engage in any of the activities prohibited by Government Code Section 86202. These activities include making, acting as an agent or intermediary in the making or arranging for the making of contributions to state candidates, committees supporting state candidates, or elected state officers.

## ANALYSIS

Mr. Dixon is a registered legislative advocate who has been asked by an incumbent elected state officer to do three specific things in connection with the officer's reelection campaign: precinct work, attend meetings, and make speeches on behalf of the elected state officer. Mr. Dixon has asked the Commission whether engaging in these activities would constitute a violation of the Political Reform Act.

Government Code Section 86202<sup>1/</sup> states:

It shall be unlawful for a lobbyist to make a contribution, or to act as an agent or intermediary in the making of any contribution, or to arrange for the making of any contribution by himself or by any other person.

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<sup>1/</sup> All statutory references are to the Government Code unless otherwise noted.

It also is unlawful for any person knowingly to receive any contribution which is made unlawful by Section 86202. Section 86204. For the purposes of these sections, a contribution is:

... a contribution made to a state candidate a committee supporting a state candidate, or an elected state officer.

Section 86200.

Thus, the specific question posed by Mr. Dixon's opinion request is whether any of the activities in which he intends to engage would be within the ambit of the prohibitions contained in Section 86202. We observe at the outset that Mr. Dixon's contemplated activities are political in nature and thus we are not here concerned with whether they would constitute gifts to the elected state officer which would be prohibited by Section 86203. We previously have determined that the requirements of the Political Reform Act are not intended to be duplicative and that payments which are for political purposes create obligations, if at all, attendant to contributions, whereas payments for personal purposes create obligations, if any, attendant to income and gifts. See Section 82030(b)(1); Opinion requested by Controller Kenneth Cory, 1 FPPC Opinions 137 (No. 75-094-C, Oct. 1, 1975).

The prohibitions contained in Section 86202 are designed to reduce the influence some lobbyists traditionally were able to exercise by reason of their role in making and arranging for large campaign contributions. The Act declares that lobbyists have gained "disproportionate influence over governmental decisions" by making large campaign contributions (Section 81001(c)); that such contributions often are made to "incumbents who cannot be effectively challenged" (Section 81001(e)); and that it is frequently the same wealthy interests which make large campaign contributions that employ lobbyists (Section 81001(f)).

On the other hand, the Act does not attempt to limit or discourage volunteer personal participation in the political process, regardless of who the individual volunteer may be. Accordingly, the definition of contribution excludes volunteer personal services<sup>2/</sup> and this exclusion is applicable to lobbyists.

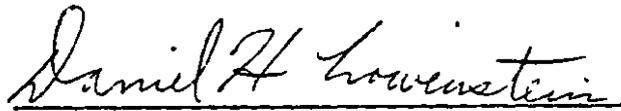
<sup>2/</sup>The definition of contribution provides, in pertinent part:

... Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him.

Section 82015.

Given these considerations, we conclude that Mr. Dixon can, while acting as a volunteer within the meaning of Section 82015, walk precincts, attend meetings, and make speeches on behalf of an elected state officer.<sup>3/</sup> However, it should be emphasized that in performing these volunteer personal services, Mr. Dixon must not engage in activities which would entail making, acting as an agent or intermediary in the making, or arranging for the making of a contribution to a state candidate, elected state officer, or their committees. Moreover, we think that, as a general rule, participation in fund-raising activities on behalf of the elected state officer by Mr. Dixon, even on a volunteer basis, would involve him in campaign contributions in a manner<sup>4/</sup> which would run afoul of the prohibitions of Section 86202.

Approved by the Commission on June 1, 1976. Concurring: Brosnahan, Carpenter, Lapan, Lowenstein and Quinn.

  
Daniel H. Lowenstein  
Chairman

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<sup>3/</sup> In reaching this conclusion we assume that Mr. Dixon is acting as a true volunteer and has not been relieved of any of his usual working responsibilities in a manner which would constitute a contribution by his employer within the meaning of 2 Cal. Adm. Code Section 18423. We also note that Mr. Dixon has asked only about these specified activities and that our opinion, of course, is limited to the material facts upon which it is based.

<sup>4/</sup> In the case of Institute of Governmental Advocates v. Younger, No. C 110 052 (Los Angeles Superior Court, memorandum decision filed on November 10, 1975), which presently is on appeal, the superior court ruled, in granting a motion for a preliminary injunction, that the phrase "arrange for the making of any contribution" requires more than a mere recommendation by a lobbyist to his employer about a contribution if the lobbyist has had no contact with the potential recipient of the contribution. This ruling, of course, has no applicability to a situation in which a lobbyist raises funds on behalf of an elected state officer or a state candidate and, therefore, inevitably has had the requisite contact.