

ANALYSIS

From the information provided to the Commission,^{2/} we understand that Mr. Horn will play no part in determining which legislators or officials will attend the seminar or the amount of their honoraria. All details relating to the seminar program are planned by officials in the G.M.A. national office in Washington, D.C. No employee of a member organization will be consulted or advised as to the identity or compensation of legislators or officials invited to appear at the seminar.

The purpose of the seminar is both instructional and informational. The program will be instructional in that those attending will be advised on techniques for contacting and communicating with legislative and administrative officials. In this respect the seminar will constitute a workshop for those seeking to influence administrative or legislative action. The purpose of the seminar also is to inform those attending about recently enacted laws. In addition, proposed legislation and future legal trends will be discussed.

G.M.A. has held similar seminars throughout the nation in the past and plans to continue this practice in the future. These seminars are not designed with specific local issues in mind. Rather, their focus is upon national trends and comparison of state laws. Thus, people from states other than California will be registrants. Speakers also will represent states throughout the nation and varying occupational backgrounds, including both government and industry.

On the basis of these facts, it appears that Mr. Horn paid full and valuable consideration in the form of his \$100 registration fee in return for a bona fide educational experience. Accordingly, we conclude that the \$100 registration fee does not constitute a contribution (Section 86200) or a gift (Section 86201), and Mr. Horn is not prohibited from attending the seminar by virtue of the fact that he is a registered lobbyist.

Having established that Mr. Horn may attend the seminar, we must decide whether he must report the registration fee as

^{2/} Information was received by the Commission with the opinion request letter and subsequently in conversations between a member of the Commission staff and Rolf Horn, of Del Monte Corporation, and James May, G.M.A.

an exchange pursuant to Section 86107(d).^{3/} The exchange provisions were included in the Political Reform Act for the purpose of recording transactions between lobbyists and state officials. However, in this case the exchange will not be transacted directly between Mr. Horn and the legislators. Rather, Mr. Horn will exchange his \$100 registration fee with G.M.A. in return for a seminar. G.M.A., in a separate transaction, will exchange the honorarium fee with legislators in return for their speaking services. As stated previously, Mr. Horn will play no part in determining which legislators or officials will attend the seminar or the amount of their honoraria.

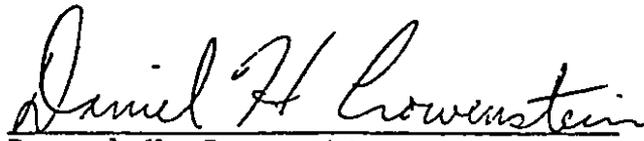
To define the transaction in question as a reportable exchange would impose a heavy burden on lobbyists to foresee the future uses of their money. Further, if all such exchanges were reported to the Commission, the volume of transactions reported might obscure from the public eye transactions upon which the Act intended to focus. Finally, pursuant to the provisions of Chapter 7, the payment must be disclosed by the public official in any event. Since we conclude that compliance with the exchange provisions in three-party transactions of the type involved here would be unreasonably burdensome to the filer, possibly destructive to the purposes of the Act and unnecessary to prevent excessive honoraria, we find Section 86107(d) inapplicable in these cases.

However, we should observe that, if the middleman in such a transaction were a sham, or a conduit, existing only for the purpose of circumventing the Act, the reporting provisions of Section 86107(d) would be applicable, and the failure to report exchanges between a lobbyist and a legislator in such circumstances would subject the lobbyist to penalties for violation of the Act. Moreover, if the seminar is in connection with lobbying activities, and therefore the registration fee is paid with funds from the lobbyist's account, Mr. Horn must report the transaction with G.M.A. pursuant to the provisions of Section 86107(b)(4) (see 2 Cal. Admin. Code Section 18615).

Accordingly, we conclude that Mr. Horn may attend the seminar and need only report the transaction pursuant to Section 86107(b)(4). He is not required to report his registration fee, or any portion thereof, as an exchange between a lobbyist and a legislator.

^{3/} Section 86107(d) requires the lobbyist to disclose "The name and official position of each elective state official, legislative official and agency official, the name of each state candidate, and the name of each member of the immediate family of any such official or candidate with whom the lobbyist has engaged in an exchange of money, goods, services or anything of value and the nature and date of each such exchange and the monetary values exchanged;"

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

A handwritten signature in cursive script that reads "Daniel H. Lowenstein". The signature is written in dark ink and is positioned above a horizontal line.

Daniel H. Lowenstein
Chairman