

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)
)
 Opinion requested by)
 Paul J. Lunardi)
 _____)

No. 75-046
 August 7, 1975

BY THE COMMISSION: We have been asked the following question by Paul J. Lunardi, a registered lobbyist:

Mr. Lunardi is a registered lobbyist for the Wine Institute. For the past fifteen years, he has held an invitational golf tournament. The Wine Institute has never been affiliated with this tournament nor has it paid any expenses of the tournament.

Among those invited to participate in the golf tournament each year are legislators, industry representatives and personal friends. Included in the thirty dollar entry fee charged to all participants, including legislators, are green fees, a banquet, trophies and other prizes. In recent years, the entry fees have more than covered the costs of the tournament and the balance has been given to charity.

Does the holding of the tournament constitute a gift within the meaning of Section 82028 of the Political Reform Act?

CONCLUSION

The tournament does not constitute a gift under the Political Reform Act so long as neither Mr. Lunardi nor any other lobbyist defrays more than his proportionate share of the cost.

ANALYSIS

Government Code Section 82028^{1/}, in part, defines "gift" as:

...any payment to the extent that consideration of equal or greater value is not received.

^{1/} All statutory references are to the Government Code unless otherwise noted.

Section 82044, in part, defines "payment" as:

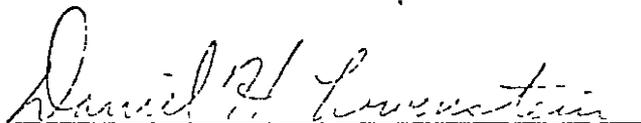
...rendering of money, property, services or anything else of value, whether tangible or intangible.

The payment of another's green fees, dinner and prizes clearly has value within the meaning of Section 82044. It would, therefore, constitute a payment within the meaning of Section 82028. Under Section 82028, however, such a payment is not a gift if consideration of equal or greater value is received.

In this case, consideration in the form of an entry fee of thirty dollars is charged to all participants, including legislators and other officials. If the thirty dollar fee failed to cover tournament costs and the deficit were paid by Mr. Lunardi, the payment of the deficit would constitute a gift and would be reportable by Mr. Lunardi. See Sections 86106(a), 86107(b)(4). Mr. Lunardi would be prohibited from making such a payment to the extent that the proportionate amount benefited a state candidate, an elected state officer, a legislative official or agency official. Section 86202.

If, as has been the case in recent years, the entry fees more than cover the tournament costs, a gift within the meaning of the Political Reform Act has not been made.^{2/}

Approved by the Commission on August 7, 1975: Concurring:
Brosnahan, Carpenter, Lowenstein, Miller and Waters.


Daniel H. Lowenstein
Chairman

^{2/} The Commission intimates no views as to whether a reportable exchange has occurred.