

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)

Opinion requested by)
 Thomas F. Olson, General Counsel)
 California Farm Bureau Federation)

No. 75-067
 August 7, 1975

BY THE COMMISSION: We have been asked the following questions by Thomas F. Olson, General Counsel for the California Farm Bureau Federation:

The California Farm Bureau Federation is the employer of a lobbyist. For several years, the Board of Directors of the Federation has provided an annual dinner to which members and consultants of the legislature and their spouses are invited. Members of the executive branch, including the Governor, the Lieutenant Governor, the Secretary of Agriculture and Services and the Director of Food and Agriculture, the members of the Board of Directors and their spouses and members of the staff of the Federation are also present. In 1974 the cost of the dinner to the California Farm Bureau Federation was approximately \$12 per person. Each person who is invited also receives a gift pack, which includes various agricultural products produced by California farmers and ranchers. In 1974 the cost of this gift pack was approximately \$5. The Federation proposes to continue providing such dinners if permissible under the Political Reform Act.

(1) Will the registered lobbyists employed by the Federation be prohibited from attending the dinner?

(2) Will such lobbyists be prohibited from making arrangements for the dinner? These arrangements would principally consist of communicating with the invitees to determine their attendance, planning the dinner and obtaining the agricultural products which comprise the gift pack.

(3) Will such lobbyists be prohibited from delivering gift packs to invitees who do not attend?

(4) Will the holding of this dinner, as described above, and the attendance of elected state officials, legislative officials or agency officials be in violation of Sections 86201 and 86203 of the Political Reform Act of 1974?

CONCLUSION

(1) Registered lobbyists are not prohibited from attending the California Farm Bureau Federation dinner.

(2) Lobbyists are prohibited from making arrangements for the dinner.

(3) Lobbyists may deliver the gift packs so long as the value of the packs does not exceed \$10.

(4) Holding the dinner as described does not violate the Political Reform Act if no lobbyist arranges for the making of gifts.

ANALYSIS

(1) There is no restriction under the Political Reform Act which would prohibit registered lobbyists from attending the Farm Bureau dinner. The regulation of lobbyists under the Act includes financial disclosure and a prohibition against gifts of more than \$10 and campaign contributions. Government Code Sections 86200, et seq.^{1/} The disclosure provisions require that the lobbyist must report the expense of his dinner if he pays the cost as an expense related to his activities as a lobbyist. Section 86107. He is making neither a gift nor a contribution, and so is not violating the prohibitions.

(2) Lobbyists are prohibited from making gifts directly or indirectly to a state candidate, an elected state officer, a legislative official or an agency official aggregating more than \$10 in a calendar month and from arranging for the making of a gift to any such person. Sections 86201, 86203. Planning the dinner and communicating with invitees would be prohibited because these activities are clearly within the meaning of the word "arrange".

Gifts of food and drink above \$10 are prohibited. For the lobbyist to communicate with the invitees regarding their attendance, plan for the dinner and obtain the gift packs certainly would constitute arranging. The Federation's lobbyists are prohibited from such activities.

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

(3) Delivering gift packages constitutes making a gift. This would be prohibited by the Act if the package exceeds \$10 in value. If the value is less than \$10, then it is reportable but not prohibited. The name and official position of recipients must be reported. Section 86107(4).

A question has been raised by the Franchise Tax Board suggesting that the proper construction of Section 86203 is prohibiting the arranging of any gift, even though a gift less than \$10 made by the lobbyist is not prohibited.^{2/}

The Commission concludes that this is not a reasonable construction of the section. This interpretation would have the anomalous result that a lobbyist could buy a drink for a specified person, but if he asked a third person, "Pay for my friend, here, will you?" he would be breaking the law. The intent of this section is to place a \$10 limit on gifts whether made directly or indirectly by a lobbyist. Therefore, delivering the gift package is not prohibited if its value is less than \$10.

(4) The Federation is not prohibited from holding this dinner. However, several reporting requirements are imposed on the Federation. The expense of the dinner is reportable by the Federation as employer of a lobbyist. Sections 86108, 86109. The name of the recipient officials must be reported. Section 86109(c). Also, if gifts throughout the year total \$25 or more, they are reportable by an official on his income reporting statement.

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


Daniel H. Lowenstein
Chairman

2/ Section 86203 reads:

It shall be unlawful for a lobbyist to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.