

State of California



SUPERSEDED

by: 18942

Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • 1100 K STREET BUILDING, SACRAMENTO, 95814

June 22, 1977

William O'Malley
 District Attorney
 Contra Costa County
 P. O. Box 670
 Martinez, CA 94553

Dear Mr. O'Malley:

Thank you for your letter of May 20, 1977, in which you ask whether or not you have any disclosure obligation in connection with a weekend you and your wife spent at a friend's cabin at Lake Almanor. You indicated that you and your wife brought food, wine and other items along for the weekend at a cost of about \$48 and ask whether or not the reciprocal hospitality you provided relieves you of any obligation to disclose your friend's hospitality as a gift on your Statement of Economic Interest.

Your reading of the Act is correct. Government Code Section 82028 defines "gift" to mean "any payment to the extent that consideration of equal or greater value is not received." "Payment" is defined, in turn, to mean "a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible." Section 82044. Thus, the receipt of accommodations, food and other benefits attendant to the type of weekend outing you describe is a "gift" within the meaning of the Political Reform Act unless consideration of equal or greater value was provided by you to your host. The Commission has explained the concept of reciprocal consideration in the following regulation:

For the purposes of Government Code Section 87207(a) the term "income" does not include the value of gifts of hospitality involving food, beverages or lodging provided to any person filing a statement of economic interest if such hospitality has been reciprocated within the filing period.

Note:
 No good because
 of charge to 18727
 for "home
 hospitality"
 77-06-267

William O'Malley

Page two

June 22, 1977

"Reciprocity" as used in this paragraph includes the providing by the filer to the host of any consideration, including entertainment or a household gift of a reasonably similar benefit or value.

2 Cal. Adm. Code Section 18727.

While an exact value may not be attached to the weekend you spent at Lake Almanor, it is reasonable to assume that the \$48 you spent on food and beverage is roughly equivalent to the value of the benefits you received. Therefore, you were correct in concluding that this benefit did not have to be reported on your Statement of Economic Interest.

If I can be of any further assistance, please let me know.

Sincerely,

Michael J. Baker
Chief
Legal Division

MJB:jo

cc: Fred Hanelt

Office of District Attorney

Court House, Fourth Floor
P.O. Box 670
Martinez, California 94553
(415) 372-4500

Contra
Costa
County



William A. O'Malley
District Attorney
Michael J. Phelan
Chief Assistant

May 20, 1977

Michael Baker
Legal Division Director
Fair Political Practices Commission
1100 K Street
Sacramento, Ca 95814

Dear Mr. Baker:

Fred Hanelt recommended that I write you. Edward L. Merrill is a practicing attorney in Contra Costa County. His firm does a good bit of criminal law. Mr. Merrill and I were law partners before I was appointed District Attorney in 1969 and we were friends for some time before that. Although we do not travel in the same circles, we may see each other socially about once a year. Our wives may see each other more often, however.

Last Summer my wife and I were invited for the weekend at the Merrill's cabin at Lake Almanor and we did go. My wife and I brought food, wine, etc. at a cost of about \$48.00.

At the time I noticed in the informational booklet that reciprocal hospitality didn't have to be reported and was of the opinion that the weekend fell into that category.

Recently I was on a local TV program speaking about Proposition 9 and it struck me that I should look into the matter further.

Michael Baker

-2-

May 20, 1977

Although a little late, I would appreciate an opinion as to whether I should have reported the above matter and if so, I am prepared to file an amended statement.

Very truly yours,

W. A. O'Malley
William A. O'Malley
District Attorney

WAO:bl

State of California



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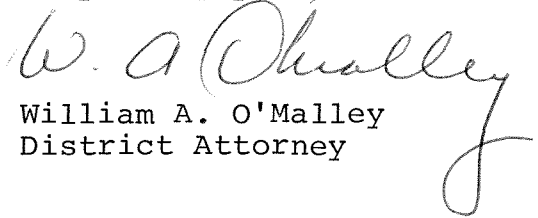
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William A. O'Malley
District Attorney

WAO:bl

Search String :

supersede

T Yr Num Advisee Description
Sub Staff

A 83 210 Eichman If a lobbyist makes a payment that benefits an offcl & the
Pritchard offcl reimburses the lobbyist before the end of the calendar
month, the lobbyist has no obligation to report the portion
which has been reimbursed. SUPERSEDED BY I-95-201.

Davis

A 81 510 REMELMEY LIMITED PARTNER IN CABLE TV FRANCHISE WOULD BE MAT AFFECTED
LEIDIGH BY FRANCHISE DECISION. REAL ESTATE CUSTOMER IS NOT SOURCE
OF INCOME TO BROKER UNTIL SALE IS CONSUMATED.
"MULTIPLE LISTINGS" AS "PROMISED" INCOME SUPERSEDED BY
BERGMAN A-93-297.

~~A 81 135 BURROWS CITIES ARE NOT REQUIRED TO ADOPT EXACT WORDING OF 18730 AS
FISHBURN PART OF THEIR C/I CODES; IT IS OPTIONAL. THE COMM'N
STRONGLY RECOMMENDS USE BY ALL CITIES AND COUNTIES. FILING
DEADLINE SUGGESTED. DISCL SET FORTH IN THE ACT SUPERSEDES
C/I CODE.~~

~~A 81 63 SMITH IF A BD OF ED MBR DISQUALIFIED HIMSELF ON THE HIRING OF HIS
SHANK WIFE AS A CERTIFIED EMPLOYEE, CAN THE REMAINING BD MBRS VOTE
TO HIRE THE SPOUSE? DO THE C/I PROVISIONS PROVIDED BY THE
ED CODE SUPERSEDE THE PRA?~~

A 78 259 MCKEAN Assistant state treasurer is required to report wedding
PRIM gifts rec'd by him & his wife on his SEI. SUPERSEDED BY
SUBSEQUENT ADVICE IN 1984.

Davis

M 77 340 Superseded by I-95-201. No reporting obligations if
BAKER legislator reimburses lobbyist for dinner prior to filing of
lobbyist's periodic statement.

A 77 336 EICHMAN Lobbyist has no reporting obligation if legislator
HERNDON reimburses lobbyist prior to closing dates of lobbyist's
periodic report. SUPERSEDED BY I-95-201.

Davis

~~A 76 182 MILLER CHARTERED CITY'S AUTHORITY TO ENACT AN ORDINANCE WHICH
DIFFERS FROM AND SUPERSEDES THE PROVISIONS OF THE PRA
REQUIRING DISCL OF CAMP FINANCE INFORMATION.~~

Search String :

supersede

T	Yr	Num	Advisee	Description
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			Sub Staff	
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O 76	71	Sankey	A pub offcl who has a 50 percent equity interest in a parcel of property which is leased to a utility company must disqualify herself from partic in the assessment of the parcel of property in which she has the interest, and she must also disqual from partic in the assessment of other prop owned by the co. (ANALYSIS APPLIED OLD 18702, SUPERSEDED)	
	O 2/157			
O 75	125	Miller	A chartered city does not have the authority to enact an ordinance which differs from and supersedes the campaign finance discl provisions of the PRA. A chartered city may, enact an ordinance which imposes addtl disclosure regmnts if such addtl regmnts do not prevent compliance with the Act. See Johnson v. Bradley; 81009.5 and 85101.	
	O 2/91			

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(correcting spelling 4/8/96
so they'll pull up in search.)

supercede

T Yr Num Advisee Description
Sub Staff

A 93 130 Andersen 93-130 is Superceded by 93-130a which says where "legally
Stone required participation" applies and some decisions need
3-vote majority & some need 4-vote supermajority, it is
appropriate to requalify 1 of the 3 disqualified members to
participate in all votes & requalify 1 of the 2 remaining
members to participate in 4-vote decision.
~~A 78 73, CHRISTIA 87100 SUPERCEDES C/I PROVISIONS OF ED CODE SECTIONS~~
~~PRIM 1171, ET SEQ.~~

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modified

T	Yr	Num	Advisee	Description
			Sub Staff	

A	94	12	LAFCo Turvill	Boundaries for proposed city of Elk Grove have been modified to exclude supervisor's property, which is now more than 2,500 feet from boundaries. Supervisor may participate in subsequent incorporation proceedings.
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I	93	439	Senate Wallace	Discussion of when letters signed by a Legislator are considered substantially similar for purposes of the mass mailing restriction of 89001. No more than an aggregate of 200 copies of substantially similar letters may be sent in a calendar month with public funds. Modified by I-94-060.
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Leidigh

I	91	73	Wilson Wallace	Water bd member may partic in a rate setting decisions and revision of the water conservation ordinance provided the decisions will not have foreseeable mfe on the offcl, his property or on any source of income to the offcl, which is distinguishable from the effect on the pub gen. Analysis modified by advise letter 92-215.
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Superseded in part

I	88	45	BAIRD SPITZ	VALUATION OF GIFT OF CINEMA PASSES; EXPLAINED THAT REG MODIFIED HOPKINS RULE.
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Superseded in part by Peck

A	87	75	MADDY HUGHES	COUNTRY CLUB MBRSHIP IS NOT RPTABLE UNLESS THE CLUB IS A "BUSINESS ENTITY,M" I.E., OPERATED FOR PROFIT, AND THE OFFICIAL HAS AN "INVESTMENT" IN THE CLUB. IN THIS CASE, SEN MADDY HAS A "PROPRIETARY" INTEREST, THEREFORE MUST RPT. The conclusion in this in this letter has been modified by Strauss I-90-654.
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Superseded in part

A	84	62	BURNHAM FISHBURN	CONFLICTS RE MBRSHIP AND FREE GUEST PASSES TO A PRIVATE SOCIAL CLUB WHICH LEASES LAND FROM THE CITY. VALUATION OF PASSES; EFFECT ON THE VALUE OF A MBRSHIP. (BALBOA BAY CLUB) the conclusion in this letter has been modified by Strauss I-90-654.
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Superseded in part

C	79	979	Hays Wood	Hays v. Wood (1979) 25 Cal.3d 772. Disclosure provisions upheld even where attorney-client privilege asserted, but modified with respect to thresholds as to lawyers and real estate brokers.
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APPENDIX

COMMISSION ADVICE AFFECTED BY THESE AMENDMENTS

The advice given in the following letters is affected by one or more provisions of sections 18215, 18225, and 18225.7, as adopted in this rulemaking proceeding. Unless otherwise noted, the entire letter is superseded. Copies of these letters/memos are available from the Commission.

§

THIS LIST IS NOT EXHAUSTIVE, AND OTHER LETTERS MAY BE AFFECTED. Please contact the Commission if you have a question concerning previous Commission advice concerning these areas of the law.

1. M-76-498 (memo to advice file). Costs of fundraiser at a home or a fundraiser in an office would be a non-monetary contribution. Superseded by ~~Regulation~~ 18215(c)(3).
2. A-77-04-010 to Ines Del Campo. Forum provided to all candidates on an equal basis would not be a contribution to candidates attending the forum. Superseded by ~~Regulation~~ 18215(c)(10).
3. A-77-09-021 from John M. Burns to John Giancello. Consumable items or expenses for a fundraiser in an occupant's home are non-monetary contributions. Superseded in part by 18215(c)(3).
4. A-77-433 to Assemblymember Bill Lockyer. Donation of a billboard to Lockyer to announce the time and location of meetings with constituents is a non-monetary contribution. Superseded by 18215(c)(4) and 18225.5(a).
5. A-82-082 to Donna Dascenzo. Costs incurred by a candidate in connection with campaign literature expressly advocating support for a ballot measure might be independent expenditures to the measure if issues are distinctly different from those involved in candidate's campaign. Superseded by 18215(c)(15).
6. A-82-096, A-82-097 and A-82-098 to Joseph E. Baird, Peter Pelkofer and Wayne Smith, respectively. Mike Curb paid for production of television advertisement which featured him raising questions about Prop. 9, the Peripheral Canal issue. Curb gave the video to Committee Against Government Excess (CAGE), the opponents of the ballot measure. CAGE ran the video several times. Ken Cory also wrote and produced an advertisement in opposition to the Peripheral Canal. Production and airing costs were paid for by CAGE. Letter concludes Curb and CAGE made in-kind contributions to each other and Cory and CAGE made in-kind contributions to each other. ~~Curb's payment of advertisement superseded by 18215(c)(15). CAGE's use of video and payment for additional video by Ken Cory superseded by 18215(c)(7).~~
Superseded in part by 18215(c)(15) and 18215(c)(7).
7. A-83-200 to Jim Gross. Provides candidates' forum is not a contribution if all candidates are invited. Superseded by 18215(c)(3) and 18215(c)(10).
8. A-85-057 to Assemblymember Mike Roos. Payments made by Nissan Motor Corporation for

a brochure for distribution at a crime prevention seminar are in-kind contributions to Mike Roos. Superseded by 18215(c)(4) and 18225.5(a).

9. A-86-0 to Phil Dowd. A billboard company producing public service billboards which include a picture of Willie Brown with a short message from Brown encouraging people to use their seatbelts is making an in-kind contribution to Brown. Superseded by 18215(c)(4) and 18225.5(a).

10. M-86-292 Memo to Advice File. Payments by the Indo-American Association which mails a brochure containing a reference to the Lt. Governor and includes a letter from the Lt. Governor promoting a trade mission are in-kind contributions. Superseded by 18215(c)(4) and 18225.5(a).

11. A-87-172 to Teresa K. Lippert. Candidates' event at a local hotel will be an in-kind contribution to those attending unless all candidates are invited. Superseded by 18215(c)(10).

12. A-90-163 to Lt. Gov. Leo McCarthy. University of San Francisco's use of McCarthy's name and photograph for their advertisements promoting a program for professional studies is an in-kind contribution to McCarthy since his reelection attempt was within three months of advertisements. Superseded in part by 18215(c)(4) and 18225.5.

13. A-90-173 to Judy Davis. Several questions posed in letter re forums and communications. Question and Conclusion 1.a. provides that using information gleaned from an interview with a candidate to be used in a mailer is at the behest of the candidate. Question and Conclusion 1.g. provides that if a committee requests and receives a candidate's photograph, biography, text of speeches, etc., from the candidate, the requesting committee has made a contribution to candidate. ~~Entire letter~~ Superseded by 18225.7.

14. T-90-187 Confirmation of Telephone Advice. Cable television station makes an in-kind contribution to Assemblymember Woodruff when cable station requests Woodruff to participate on a cable television program where he will interview government related persons. Superseded by 18215(c)(4).

15. A-90-407 to Daniel Lowenstein. Candidate A pays for television ad featuring Candidate B endorsing Candidate A. Letter provides that Candidate A is making a contribution to Candidate B. Superseded by 18215(c)(6).

16. I-91-044 to Phillip Recht. This letter contains a discussion regarding forums and provides that forums are not contributions if all candidates are invited. Superseded in part by 18215(c)(10).

17. A-91-529 to Robert F. Burns. Letter discusses forums in newspapers and provides that forums made available to all candidates would not be a contributions. Superseded in part by 18215(c)(10).

18. A-92-151 to Ronald W. Beals. Billboard space promoting the Congress of Racial Equality

(CORE) which features a CORE official who is also a candidate for municipal election, is not a contribution to official so long as the billboard is not in or situated such that it would be directed to the voters in the candidate's municipality. Superseded by 18215(c)(4).

19. A-92-411 to Ann Mills. Letter discusses use of photograph, name and title of an elected officer in video or brochure. If video or brochure is published within three months of next election, this could constitute a contribution to the elected officer depicted in the video or brochure. Superseded in part by 18215(c)(4) and 18225.5(a).

20. A-92-453 to B.E. Goldfarb. Televised debate where all candidates are invited to attend is not a contribution to candidates attending. Superseded by 18215(c)(10).

21. A-92-456 to Robert W. Wilson. If all candidates in an election for a specific office are invited to a forum sponsored by the Retired Public Employees Association of California, forum is not a contribution to candidates who attend. Superseded by 18215(c)(10).

22. I-92-473 to James R. Sutton. ~~Portions of letter addressing debates and forums to all candidates~~ Superseded by 18215(c)(10).

in part

23. A-93-300 to Jonathan P. Lowell. A "candidate's night" forum provided to all candidates sponsored by the city to be televised on cable television is not a contribution to candidates who participate. Superseded by 18215(c)(10).

24. A-94-026 to Ellen Spellman. Page Seven contains a reference to the McCarthy Advice Letter, A-90-163 which is totally superseded by 18215. Reference to McCarthy is removed.

25. I-94-117 to Robert Shield. Page Three of letter references McCarthy Advice Letter, A-90-163 which is totally superseded by 18215. Reference to McCarthy is removed.

26. A-94-221 to Judy Davis. Brochure sent to the public two months before the election which contained a picture of the mayor encouraging support for a library project was a contribution to the mayor. Superseded by 18215(c)(4) and 18225.5.

27. A-94-370 to Nancy Mancuso. The San Francisco Municipal Forum (SFMF) made campaign contributions to two candidates invited to a debate because the SFMF did not invite all candidates on the ballot for that election. Superseded by 18215(c)(10).

28. I-95-015 to Fred Lowell. Discussion that a forum for all candidates would not be a contribution to those candidates attending. Superseded in part by 18215(c)(10).

no notation