

State of California



Fair Political Practices Commission

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

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

August 14, 1984

Joshua Newman
Associate Consultant
Assembly Committee on Economic
Development & New Technologies
State Capitol
Sacramento, CA 95814

Re: Your Request for Advice
Our Advice No. A-84-187

Dear Mr. Newman:

Thank you for your request for advice on the disclosure provisions of the Political Reform Act.

FACTS

You are an associate consultant to the Assembly Committee on Economic Development and New Technologies. Recently, an industry association held an informational conference. Association members were charged \$150 and industry representatives who were not association members were charged \$175. Because the information presented at the conference was relevant to legislative research that you are conducting, you were allowed to attend the conference free of charge. No specific legislation was discussed at the conference. You paid your own travel costs.

QUESTION PRESENTED

Do the disclosure provisions of the Political Reform Act require you to disclose, as a gift, the free admission to the conference?

CONCLUSION

You are not required to disclose the free admission as a gift.

Joshua Newman
August 14, 1984
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DISCUSSION

Under the provisions of the Political Reform Act, gifts of \$50 or more must be disclosed on a public official's^{1/} Statement of Economic Interests^{2/} (Government Code Section 87207^{3/}). However, the term "gift" does not include "informational material such as books, reports, pamphlets, calendars or periodicals" (Section 82028). This provision has been interpreted to exclude from disclosure free admission to informational tours. Similarly, the staff feels that free admission to informational conferences should also be excluded.^{4/}

Section 82028(b) (2) states that payment for travel or reimbursement for any expenses shall not be included in the informational material exemption.^{5/} In the present case, you paid your own travel expenses and this provision has no application.

If I can be of any additional help to you, please feel free to contact me at 916/322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel, Legal Division

JSM:km

^{1/} The term "public official" includes employees and consultants of state agencies (Government Code Section 82048).

^{2/} If the disclosure is required by the official's disclosure category.

^{3/} Hereinafter all statutory references made are to the Government Code unless otherwise indicated.

^{4/} If, in the future, you are provided with free admission to an informational conference which is intended to address a specific piece of legislation, please contact the FPFC again, as this may affect the application of this exemption.

^{5/} However, other provisions may exempt payment for travel or reimbursement for expenses from disclosure. (See Section 82030(b) (2) and 2 Cal. Adm. Code Section 18728, copy enclosed.)

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Associate Consultant

Antonia Carrillo-McCabe
Committee Secretary

Barbara Milman
Chief, Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95809

Dear Ms. Milman:

At the suggestion of Carla Wardlow of your Technical Assistance Division, I am writing for clarification of whether the waiver of a conference fee constitutes a reportable "gift" under the Fair Political Practices Act.

The specifics of this situation are as follows:

- ° An industry association recently held an informational conference. Association members were charged \$150. Industry representatives who were not members of the Association were charged \$175.00. The conference fee covered conference room rental, speakers' honoraria, refreshments, Association expenses and "profit".
- ° I attended the conference without charge. My participation was part of my professional activities in that the information presented was relevant to legislative research I am conducting. I did not participate in the conference as a speaker or any other type of "presenter".
- ° I paid out of personal funds my travel costs to and from the conference.
- ° At least one other legislative employee (from a different office), and two other private industry representatives, also attended the conference as passive participants without charge. An industry association representative

reports that additional public or private officials would have been welcome to attend without charge, had they requested permission, as I had done.

I do not feel that the waived conference fee should be a reportable gift for the following reasons:

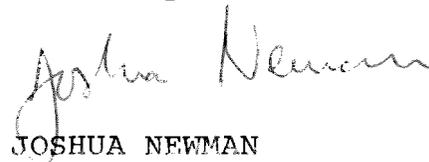
- ° I participated as part of my professional activities.
- ° The conference was informational, not political.
- ° Conference fees were waived for other governmental employees, and private industry representatives, indicating that I did not receive any "special" treatment unavailable to other public officials in similar positions.
- ° The passage of Proposition 24 has resulted in the freezing of staff travel budgets, thereby necessitating that staff seek means to cut travel costs to fulfill professional responsibilities.

I hope that you will agree that the circumstances outlined above do not warrant this fee-waiver to be considered a reportable gift. However, if the Commission determines that this is a gift, I have the following additional question relating to how much I need to report:

- ° Is the "profit" portion of the fee (that is, the amount of the fee collected by the Association above its expenses) part of the gift? I feel that the "profit" should not be part of the gift because the "profit" is intended to be made from industry attendees, not governmental participants.

Thank you for your prompt attention to this matter. I stand ready to properly report this transaction once the Commission clarifies my responsibilities.

Sincerely,



JOSHUA NEWMAN
Associate Consultant

JN:jkt

cc: Honorable Sam Farr
Doug Kim
Deputy Administrative Officer
Assembly Rules

State of California



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July 20, 1984

Joshua Newman
Associate Consultant
Assembly Committee on Economic
Development and New Technologies
State Capitol, Room 3120
Sacramento, CA 95814

Re: A-84-187

Dear Mr. Newman:

Your letter requesting advice under the Political Reform Act has been referred to Janis Shank McLean, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:plh

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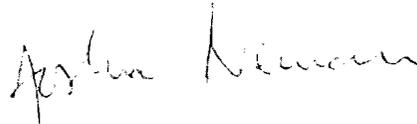
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