

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 • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

November 27, 1984

Assemblyman Patrick J. Nolan
State Capitol, Rm. 2137
Sacramento, CA 95814

Re: Our Advice No. A-84-293

Dear Assemblyman Nolan:

Commissioner Stanford has referred your October 18, 1984, letter regarding air travel arranged for you by SONY Corporation on August 16, 1984. I have several comments on your letter.

First, you have apparently considered the air travel provided by SONY as a gift. While that is consistent with Commission opinions and advice, the Commission may reconsider this next year when it reviews its regulations and advice concerning treatment of all types of officeholder related expenses under the Political Reform Act.

Second, under Government Code Section 82028(b)(2), a gift to a public official may be returned to the donor within 30 days of receipt. The Commission has consistently held that paying the donor the fair market value for a "gift" has the same effect as returning the gift. Thus, assuming that the air travel constituted a gift, if you had paid SONY the fair market value of the air travel within 30 days of receipt (by September 16, 1984), you would not have received a gift from SONY. However, you did not pay SONY until October 16, 1984, 60 days after receipt of the air travel. October 16 was too late to "return" the gift.

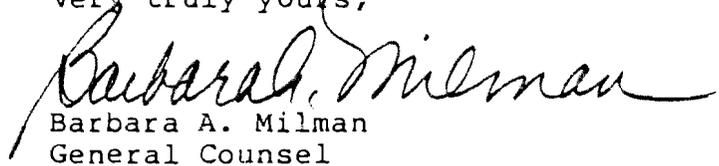
Third, the Commission has set forth guidelines on how to determine the value of a gift of air travel in its opinion issued to Peter G. Stone, 3 FPPC Opinions 52 (No. 77-003, June 9, 1977). In that opinion the Commission held that the fair market value of private air transportation is either the commercial air rate for a similar trip or the charter rate for such a trip divided by the number of passengers on the trip. The actual cost to the donor of the air travel is not the fair market value of the travel.

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Finally, receipt of a gift of over \$250 could require your disqualification under Government Code Section 87100 from a legislative decision which affected the donor differently than the public generally. In this case, disqualification would only be a possibility if the fair market value of the gift from SONY was \$250 or more, and if the legislative decision involved "special" legislation which singled out SONY for special treatment. Legislation generally affecting all companies which manufacture the same types of goods as SONY could not require disqualification. 2 Cal. Adm. Code Section 18703.

I hope that this letter has answered your questions under the Political Reform Act concerning the air travel provided for you by SONY. If you have any further questions, please let me know.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:KM

PO. BOX 849
GLENDALE, CA 91209
(818) 246-8044

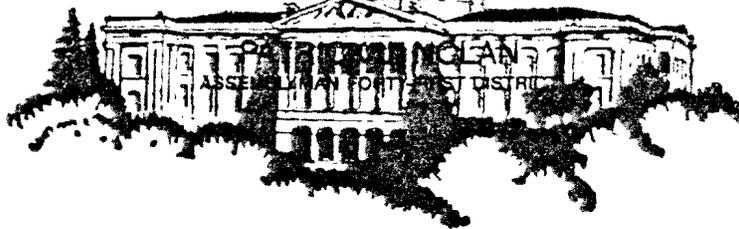
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SEP 22 12 40 PM 1984

Assembly California Legislature



October 18, 1984

Mr. Dan Stanford, Executive Director
California Fair Political Practices
Commission
1100 K Street
Sacramento, California 95814

Dear Mr. Stanford:

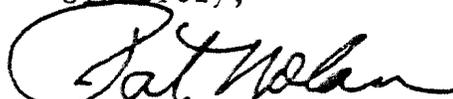
A representative of your commission contacted my office and expressed concern about a flight arranged by the Sony Corporation of America to allow me to return to the Capitol for an unexpected Ways and Means hearing on August 16, 1984.

I have paid Sony Corporation the cost of the flight, \$2,818.80, and am aware of no actual or potential conflict of interest resulting from their courtesy.

I have been advised by my legal counsel, Charles H. Bell, Jr. of Nielsen, Hodgson, Parrinello & Mueller, that no disqualification is or was required under either the Legislative Ethics Code or the Political Reform Act.

If you have any questions regarding this matter please do not hesitate to call me at my office.

Sincerely,


PAT NOLAN

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Enclosures