



California Fair Political Practices Commission

January 15, 1987

The Honorable Richard Katz
Assemblyman, Thirty-Ninth District
State Capitol, Room 3146
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-86-335

Dear Assemblyman Katz:

You have requested advice concerning your duties under the conflict of interest provisions of the Political Reform Act.^{1/}

QUESTIONS

- (1) What are the reporting requirements for wedding gifts?
- (2) What are the reporting requirements for your spouse's salary, investments, property and other income?
- (3) What are the reporting requirements with regard to your spouse's separate income, property and investments?

CONCLUSIONS

(1) You must report your community property interest in wedding gifts received by you and your spouse. The reporting threshold for gifts is \$50. Therefore, you must report wedding gifts with a value of \$100 or more.

(2) You must report your community property interest in your spouse's salary. However, you are not required to report your spouse's "separate" income. You must report all investments and interests in real property in which you or your spouse have an interest of \$1,000 or more.

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

(3) You are not required to report your spouse's income which is legally "separate" income pursuant to a prenuptial agreement. However, you must report all investments and interests in real property held by your spouse.

ANALYSIS

An official must disclose on his or her Statement of Economic Interests any gift with a value of \$50 or more. (Gov. Code Section 87207(a)(1).) However, wedding gifts are the property of both spouses unless they are peculiarly adaptable to the personal use of one spouse and unequivocally intended exclusively for the use of one spouse. (Regulation 18726.5.) Therefore, because each spouse has a one-half interest in wedding gifts, only those gifts with a value of \$100 or more are reportable. (Id.; see also Torres Opinion, 2 FPPC Ops. 31 (No. 75-163, Feb. 4, 1976).)

Enclosed for your information are copies of Regulation 18726.5, the Torres Opinion, and an advice letter issued to Assemblyman Gray Davis (No. A-83-088, March 31, 1983). The opinion and advice letter specifically discuss the reporting of wedding gifts, and will provide you with additional relevant information.

With regard to reporting your spouse's income, Government Code Section 82030 defines "income" of an official to include "a payment received ... including any community property interest in income of a spouse." By inference, "income" does not include a spouse's separate income. Accordingly, if the prenuptial agreement you and your spouse intend to enter into will convert what would otherwise be community property income into separate property income, you will not be required to report the separate property income of your spouse. To be considered separate property income, the income must be maintained in separate accounts; the separate funds may not be commingled with community funds or used to pay for community expenses; and community efforts must not be used to produce or enhance the separate income of either spouse. (See Hackard Advice Letter (No. A-84-070, April 20, 1984).)

With regard to investments and interests in real property held by your spouse, the definitions of "investment" and "interest in real property" held by an official include interests in real property and investments "owned directly, indirectly or beneficially by an official or his or her immediate family." (Gov. Code Sections 82033 and 82034.) "Immediate family" means the spouse and dependent children of an official. (Gov Code Section 82029.) Accordingly, although the investments and

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interests in real property owned by your spouse may be her separate property, you must disclose them on your Statement of Economic Interests. If you wish, you may indicate on your Statement of Economic Interests that the investments and interests in real property held by your spouse are her separate property.

If you have any questions concerning this advice, please contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel



By: Jeanne Pritchard
Division Chief, Technical
Assistance & Analysis Division

DMG:JP:kmt

Enclosures

SACRAMENTO ADDRESS
STATE CAPITOL
SACRAMENTO 95814
(916) 445-1616

TRANSPORTATION COMMITTEE
ADDRESS
STATE CAPITOL
SACRAMENTO, CA 95814
(916) 445-7278

DISTRICT ADDRESS
9140 VAN NUYS BLVD., SUITE 109
PANORAMA CITY, CALIFORNIA
91402
(818) 894-3671

Assembly F P P C California Legislature

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ASSEMBLYMAN, THIRTY-NINTH DISTRICT
Chairman,
ASSEMBLY TRANSPORTATION COMMITTEE

December 12, 1986

Diane Griffith, General Counsel
FPPC
P.O. Box 807
Sacramento, California 95804

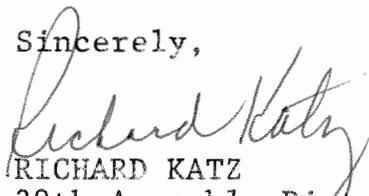
Dear Ms. Griffith:

I will be getting married in 1987, and would very much appreciate a written response from your office to the following questions:

- 1) What are my reporting requirements for wedding gifts?
- 2) What are my reporting requirements on my spouse's salary, investments, property and other income?
- 3) We plan on drawing a prenuptial agreement, under which a portion of my spouse's income, property and/or investments will be listed as separate property in which I will have no interest or gain. Is this separate income, property or investments reportable by me?

Thank you for your attention to this matter.

Sincerely,


RICHARD KATZ
39th Assembly District

RK:kfm



California Fair Political Practices Commission

December 17, 1986

Honorable Richard Katz
39th Assembly District
State Capitol
Sacramento, CA 95814

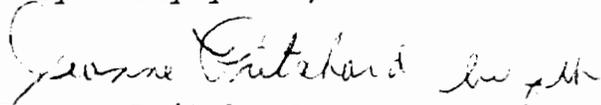
Re: 86-335

Dear Assemblyman Katz:

Your letter requesting advice under the Political Reform Act was received on December 15, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh