



In contrast, the legislators who are honorary members of Capitol Network and performed certain "host" services at the dinners do not appear to have provided full and adequate consideration for the dinners.

The threshold for reporting gifts is \$50 or more in a calendar year. The threshold for reporting other types of income is \$250 or more in a calendar year. Therefore, gifts or income meeting these thresholds must be reported.

#### FACTS

Capitol Network was formed in 1985 "to promote the professional interests of women working within the Legislature, to promote interaction among members and provide a network of support and assistance for members."

The membership of Capitol Network consists of three groups: regular and corporate members who pay dues, and honorary members, all of whom are women legislators. It is our understanding from previous correspondence and from conversations with you and legislative staff that all of the dues collected are used to pay for two events each year at which meals are served.

In our letter to you dated April 17, 1987, we concluded that dues paid to Capitol Network by members who are lobbyists, lobbying firms or lobbyist employers are "activity expenses" which must be disclosed on their lobbying disclosure reports. This is because the membership dues are used for the purpose of paying for meals for legislators and others.

In addition, in our letter dated April 17, 1987, we concluded that legislators who receive free meals or other benefits paid for with dues payments must report the meals or other benefits as gifts on their annual statements of economic interests if the total value received during a calendar year was \$50 or more.

In subsequent conversations with you, Assemblywoman Mojonnier and Linda Fische, we were asked if the legislators who served as waiters/servers for the dinners and received free meals, could consider their services "full and adequate consideration" for the value of the meals and not be required to report the meals as gifts. We advised you by telephone that if the waiters/servers could show that they were providing full and adequate consideration for the meals, they would not be required to report the meals as gifts.

In this request for advice, you have provided the following information:

While we have not officially tagged them as such, the "honorary members" serve as "hosts" for our events. All the women legislators have had specific duties, greeting and seating guests, and making sure everything about the event is pleasant for attendees. When looking at the situation, it is clear to me that these legislators are receiving their meal as full and adequate consideration for their services as hosts. I believe it is appropriate for us to formalize these tasks by bestowing the title of "host" upon these "honorary members." Please let us know if this makes any difference in the reportability of our members' dues.

#### ANALYSIS

The Act requires that legislators disclose, among other reportable interests, "income." Income is defined in Section 82030, and includes "gifts." A legislator must disclose each source of income, other than gifts, aggregating \$250 or more in a calendar year. The threshold level for disclosure of gifts is \$50. (Section 87207.)

Section 82028 provides that "gifts" are:

...any payment to the extent that consideration of equal or greater value is not received ....

Section 82028 further provides that:

Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

Although the Commission does not bear the burden of proving whether services provided in connection with receipt of something of value constitute "full and adequate consideration" in any specific situation, it is our view that the services provided by the women legislators in the situation you have described do not constitute full and adequate consideration for the meals received. The "duties" assigned them appear to be little more than that expected of any honored guest who attends a social event. Bestowing the title of "host" upon the honorary members would not alter our conclusion. In contrast, the male legislators who act as waiters perform a much more specific task which is easily distinguishable from the usual activities of guests at a social event.

Judy Harper  
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This view is based on Section 81003 which provides that the Act "should be liberally construed to accomplish its purposes." With one limited exception which does not apply in this situation, the Commission consistently advises that meals, transportation, accommodations and similar benefits received by an official are gifts rather than earned income. (See In re Gutierrez (1977) 3 FPPC Ops. 44.) We believe this interpretation is necessary to preserve the spirit and intent of the Political Reform Act.

If you have any questions about this letter, please call me at 322-5662.

Sincerely,

Diane M. Griffiths  
General Counsel

By:  CW  
Chief, Technical Assistance  
and Analysis Division



SEP 11 2 31 PM '87

September 2, 1987

Diane Griffiths, General Counsel  
Fair Political Practices Commission  
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Dear Diane:

I want to thank you again for all your hard work on the questions Capitol Network has raised. Jean Pritchard has been extremely diligent and helpful.

In discussions with Board members yesterday, we realized that it might be helpful if we were to formally recognize the tasks that are traditionally assigned to the women legislators who are 'honorary members' of Capitol Network. You have stated that since the 'waiters' are providing services, there is no problem or reportability incurred as to the meals that they eat at Capitol Network functions.

While we have not officially tagged them as such, the 'honorary members' serve as 'hosts' for our events. All the women legislators have had specific duties, greeting and seating guests, making sure everything about the event is pleasant for attendees. When looking at the situation, it is clear to me that these legislators are receiving their meal as full and adequate consideration for their services as hosts. I believe that it is appropriate for us to formalize these tasks by bestowing the title of 'host' upon these 'honorary members'. Please let us know if this makes any difference in the reportability of our members' dues.

As you and your staff have repeatedly noted, we have tried, since Capitol Network's inception, to stay within FPPC parameters, and have held a good faith belief that our dues were not reportable. Of course, if the FPPC comes to any contrary conclusion, we will make certain that the record is corrected for all of our members and guests, as appropriate.

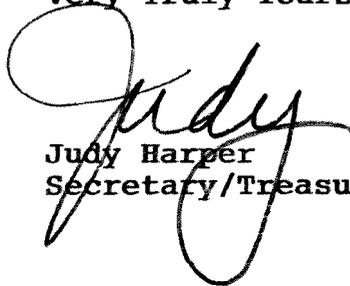
Post Office Box 41481, Sacramento, CA 95841

Diane Griffiths  
September 2, 1987  
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At Ms. Pritchard's request, I am attaching a listing of the women legislators who have attended our events since the origin of Capitol Network, and the pro rata value of each meal.

Additionally, I would appreciate it if you would correct your earlier communication as to my position with Capitol Network. My position is that of Secretary/Treasurer, not Legislative Representative. We apologize for our error, which resulted in your error.

Very Truly Yours,



Judy Harper  
Secretary/Treasurer

## CAPITOL NETWORK FUNCTIONS

### 1985

February - Pennisi's	Total Cost	\$1,525.84
	Cost per person	23.47
Number of people present - 65		
Number of women legislators present - 4		

September - Tampico Lil's	Total Cost	\$971.55
	Cost per person	14.08
Number of people present - 69		
Number of women legislators present - 1		

### 1986

February - Mardi Gras	Total Cost	\$4,328.91
	Cost per person	54.11
Number of people present - 80		
Number of women legislators present - 6		

August - Western Event	Total Cost	\$1,764.87
	Cost per person	35.30
Number of people present - 50		
Number of women legislators present - 3		

### 1987

February - Mardi Gras	Total Cost	\$5,888.42
	Cost per person	73.70
Number of people present - 80		
Number of women legislators present - 5		

August - 50's Sock Hop	Total Cost	\$1,068.69
	Cost per person	13.36
Number of people present - 80		
Number of women legislators present - 1		



# California Fair Political Practices Commission

September 16, 1987

Judy Harper  
Secretary/Treasurer  
Capitol Network  
P.O. Box 41481  
Sacramento, CA 95841

Re: 87-235

Dear Ms. Harper:

Your letter requesting advice under the Political Reform Act was received on September 11, 1987 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 if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

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*  
Jeanne Pritchard  
Chief

Technical Assistance and Analysis  
Division

JP:jaj