



California Fair Political Practices Commission

March 16, 1989

William H. Davidge
543 Fifth Street
Solvang, CA 93463-2616

Re: Your Request For Advice
Our File No. A-89-134

Dear Mr. Davidge:

This is in response to your request for advice regarding your responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Are frequent exchanges of restaurant meals between friends reportable gifts?

CONCLUSION

Restaurant meals exchanged between friends are reportable gifts unless an exception applies as discussed below.

FACTS

You are a planning commissioner in the City of Solvang. You and a friend dine together at restaurants approximately 50 times during the course of the year. Your friend pays for some of the meals and you pay for others. The value of the meals provided by each party is approximately equal.

Your friend, who is not a lobbyist, is a 50% owner of a corporation which owns a restaurant in the city where you are a planning commissioner. Many of the meals for which you do not pay are provided to you by your friend in this restaurant. You do not

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

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know whether your friend is paying for these meals or whether her corporation is absorbing the cost of the meals.

ANALYSIS

As an elected officer as defined in Section 82020, you must file an annual statement disclosing your investments, your interests in real property, and your income during the period since the previous statement. (Section 87203.) Gifts, including any gift of food or beverage, constitute "income" for reporting purposes. (Section 82030(a).)

Section 87207 requires the disclosure of certain information about gifts totalling \$50 or more in value. The public official who is the recipient of the gifts must disclose the name, address and business activity of the donor and the amount and date on which the gifts were received. (Section 87207(a)(1)-(4).)

The Commission has distinguished between gifts of friendship and gifts intended to influence officials in carrying out their duties. Gifts of friendship have not been considered to be within the purview of the Act. For example, in the Cory opinion, the Commission determined that the volunteer services of a neighbor to repair a fence on Mr. Cory's property were not reportable. (See In re Cory (1975) 1 FPPC 153, 154, copy enclosed.)

Just as volunteer services in political campaigns represent little threat to the electoral process and, therefore, are excluded from the definition of "contribution," Section 82015, everyday acts of fellowship constitute little threat to the integrity of public officials.

In re Cory, supra at 155.

Voluntary personal services provided by a friend are not reportable gifts if (1) the neighbor or friend is not in a business or trade that provides those services; and (2) the neighbor or friend spent less than \$50 to provide the service. (Roberti Advice Letter, No. A-85-002.) Because your friend is in the business of providing meals through her ownership in a restaurant where you often dine, and because the total cost of the meals provided by your friend presumably exceeds \$50 in any one year, this exception would not apply to you.

Similarly, the Commission has consistently advised that truly personal gifts to a public official are not prohibited and do not have to be disclosed under the provisions of the Act when two persons are engaged to be married or are engaged in an established "bona fide dating relationship." In such a relationship, truly personal gifts, such as gifts of entertainment, meals, personal property or expenses involved in recreational travel, need not be

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disclosed in an official's Statement of Economic Interests. (Shea
Advice Letter, No. A-84-085, copy enclosed.)

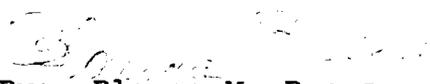
Conversely, all other restaurant meals for which you have not
paid must be reported as gifts if, in the aggregate, they exceed
the sum of \$50 in any one year. (Section 87207(a)(1).)

Because your friend has a proprietary interest in a
restaurant where you often dine, if the service is provided by the
business entity, the meals constitute a reportable gift. On the
other hand, if your friend pays for the meals, and if you and your
friend have a bona fide dating relationship, the meals are not
reportable gifts.

I trust this letter has provided answers to your questions.
Should you have any further questions, I may be reached at (916)
322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


By: Blanca M. Breeze
Counsel, Legal Division

DMG:BB:ld

Enclosures

FFPC

FEB 23 1989

RECEIVED

WILLIAM H. DAVIDGE
543 Fifth Street
Solvang, CA 93463-2616
(805) 688-5270

February 19, 1989

FAIR POLITICAL PRACTICES COMMISSION
P.O. Box 807
Sacramento, CA 95804-0807

RE: Form 721

Dear Sir or Madam:

I am attempting to complete Form 721 and don't know how to handle a particular situation.

A friend of mine and I dine together in restaurants frequently (maybe 50 times a year). Sometimes I pay for the meal and sometimes she pays for the meal. I would estimate the value of the meals provided by each party is approximately equal. She owns 50% of a corporation that owns a restaurant in the city where I am a planning commissioner. Many of the meals I do not pay for are provided in that restaurant. I am not aware if she is paying for the meal as an individual or if the corporation is paying for the meal. She is not a lobbyist. I see in the Manual for Form 721 that "Gifts approximately equal in value exchanged between you and an individual, other than a lobbyist, on holidays, birthdays or similar occasions" need not be disclosed. It would seem socially strange to always ask for separate checks when dining out. Should these exchanges of fare be considered gifts? If so, what is your interpretation of "SIMILAR OCCASIONS"? Do the exchanges of gifts have to take place on the same day to be exempt (i.e. If I buy dinner on Memorial Day and she buys dinner of equal value on July 4th, do I have to report the July 4th dinner)?

I would appreciate direction from you as to how this matter should be handled. If you need further clarification on any matter, please let me know and I will try to supply the information.

Sincerely,



William H. Davidge

WHD:ged



California Fair Political Practices Commission

March 2, 1989

William H. Davidge
543 Fifth Street
Solvang, CA 93463-2616

Re: Letter No. 89-134

Dear Mr. Davidge:

Your letter requesting advice under the Political Reform Act was received on February 23, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Blanca Breeze an attorney in the Legal Division, directly at (916) 322-5901.

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 information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. 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,

Diane M. Griffiths

Diane M. Griffiths
General Counsel

By jeh

DMG:plh

FFPC

FEB 23 1989

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