



California Fair Political Practices Commission

December 22, 1989

Linda R. Downing, Director of Finance
City of Redding
760 Parkview Avenue
Redding, CA 96001-3396

Re: Your Request for Informal Assistance
Our File No. I-89-599

Dear Ms. Downing:

This is in response to your request for advice regarding the responsibilities of certain City of Redding officials under the conflict-of-interest provisions of the Political Reform Act (the "Act").¹ This advice is premised on the information provided in your letter of October 17 and in subsequent telephone conversations with you.

It is understood from your letter that no specific governmental decision is pending and that the circumstances giving rise to your question cannot recur because of a change in city policies and procedures. Instead, you have asked whether a conflict of interest exists because of the past conduct of city officials. The Commission does not provide advice concerning past conduct (Regulation 18329(b)(8)(A), 18329(c)(4)(A)), and we are unable to advise you with respect to your query.

Enclosed please find several items which you may find useful as a general explanation of the Act's requirements. Included are copies of the Commission's decision in In re Stone (1977) 3 FPPC Ops. 52 that explains under what circumstances a gift is made to a city, rather than a public official; a recent advice letter interpreting the Stone Opinion (Markman Advice Letter, A-89-172); and the Stipulation, Decision and Order in In re Kueny (FPPC No. SI-86/261 (1988)).

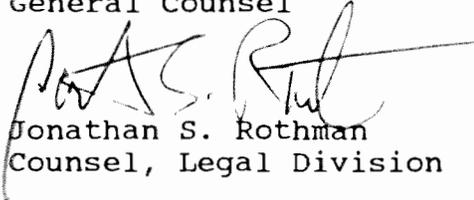
¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Also enclosed is a copy of proposed Regulation 18727.1 which would codify the procedure in the Stone Opinion. At its January 9, 1990 meeting, the Commission will decide whether to notice the proposed regulation in March 1990. We invite your comments on the proposed regulation

I am sorry that we cannot be further assistance to you in this matter. If you have any questions please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



Jonathan S. Rothman
Counsel, Legal Division

KED:JSR:plh

Enclosures



City of Redding

October 17, 1989
F-010-000-000

Ms. Kathy Donovan
General Counsel
Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804

Oct 19 12:52 AM '89
FPPC

Dear Kathy:

SUBJECT: Request for Letter Ruling

We understand that it is the standard opinion of the Fair Political Practices Commission that a gift to a public official occurs when:

- 1) The payment of costs associated with the trip to meet with the bond rating agencies and the bond insurance companies regarding a debt issue are paid by the underwriter that will take the issue to market; and
- 2) Such costs are not reimbursed to the underwriter within 30 days of their initial payment.

We hereby request a letter ruling regarding this issue in light of the specific circumstances of the City of Redding, as outlined below:

The City of Redding occasionally finds it necessary to issue long-term debt (bonds, certificates of participation, etc.) to finance various projects. When a debt issuance is planned, the City may elect to send a team of officials to New York to meet with the bond rating agencies and bond insurance companies. The purpose of the trip is to facilitate achieving the best possible price for the issue.

The officials which compose the team are designated by the City Manager's office, and participation on the team is considered to be a part of the officials' job responsibilities. The cost of the trip, though initially paid by the underwriter, is an obligation of the City. The City reimburses the underwriter at the time the issue is sold.

Ms. Kathy Donovan, FPPC
October 17, 1989
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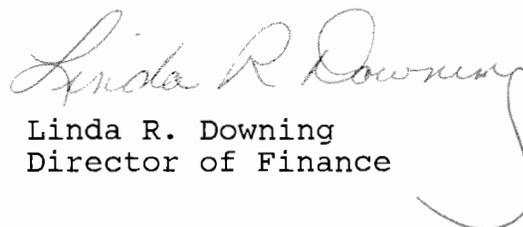
Such trips are scheduled less than a month before the date the issue is to be taken to market. However, the City recently delayed the sale of issue by two weeks waiting for a more favorable market. Consequently, the underwriters were not reimbursed for these costs within a month of their incurrence. The cost of the trip was approximately \$2,000 per official (total cost \$9,784).

It is our opinion that our specific circumstances do not constitute a gift to the officials. The costs of the trip were an obligation of the City. If a gift is construed to have occurred, it should be considered to be a gift to the City, not the official.

Since this circumstance occurred, the City has adopted the policy of paying out of pocket for the cost of such trips, thereby avoiding any possibility that the costs will be construed as gifts to officials.

We hope that we have provided enough information above for you to provide us with a letter ruling. If you have any questions or need additional information, you may contact me at 916/225-4079.

Very truly yours,


Linda R. Downing
Director of Finance

LD:KS:bb



California Fair Political Practices Commission

October 20, 1989

Linda R. Downing
Director of Finance
City of Redding
760 Parkview Avenue
Redding, CA 96001-3396

Re: Letter No. 89-599

Dear Ms. Downing:

Your letter requesting advice under the Political Reform Act was received on October 19, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jonathan Rothman 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,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh