



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

June 28, 2010

Lance H. Olson
Olson Hagel & Fishburn LLP
555 Capitol Mall, Suite 1425
Sacramento, California 95814

This advice letter is SUPERSEDED by *Olson*, Advice Letter No. I-15-065 to the extent that it conflicts with amendments to Section 82015 and Regulation 18215 and the conclusions in that letter that lobbyists are prohibited from hosting in-home fundraisers.

RE: Your Request for Informal Assistance
Our File No. I-10-092

Dear Mr. Olson:

This letter responds to your request for advice regarding the contribution limit provisions of the Political Reform Act (the "Act")¹ and is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Additionally, we base our advice solely on the provisions of the Act and do not address the applicability, if any, of other laws.

Because your letter seeks general information, we are treating your request as one for informal assistance.²

FACTS

The Gualco Group, Inc. ("Gualco") is a lobbying firm registered to lobby the state legislature. Jackson Gualco is a registered lobbyist and owner of Gualco. Gualco rents an office in Sacramento.

Gualco owns a share of a suite at Raley Field in West Sacramento, home of the Sacramento River Cats, a Triple-A Minor League baseball club. This share is a leasehold interest. The cost of the suite is \$896 per ballgame and includes 16 admissions tickets to the game. The cost of food and beverages provided for the suite is approximately \$500 per game.

Gualco would like to allow one or more lobbyist employers to use the suite to host a campaign fundraiser for an incumbent Legislative candidate at an upcoming game. Any lobbyist

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

employer who hosts such an event would reimburse Gualco for the cost of the suite and would pay for all costs associated with food and beverages and other costs of the event, such as invitations. The lobbyist employer would have full discretion over who is provided tickets to the event. Cost of the tickets to attend the fundraiser would be determined by the lobbyist employer in consultation with the candidate or the candidate's campaign manager.

Representatives of the lobbyist employer would attend. It is likely that some Gualco lobbyists and public officials other than the candidate would be invited by the lobbyist employer or the candidate to attend these fundraisers without charge.

Gualco would also like to either host or allow a lobbyist employer to host fundraisers in Gualco's office in Sacramento. The office fundraiser would take place in the evening after normal business hours when the office is not otherwise in use.

You understand that a fundraiser hosted in the suite at a River Cats game will constitute an in-kind contribution to the legislative candidate on whose behalf the fundraiser is held. You also understand that Section 85702 and Regulation 18572(a)(2) prohibits Gualco from making a contribution to a legislative candidate because it is owned by a registered lobbyist. Finally, you understand that Section 82015(f) exempts home and office events costing \$500 or less from the definition of contribution.

QUESTIONS

1. Does the Act prevent Gualco (a lobbying firm) from renting its suite at Raley Field to one of Gualco's lobbyist employer clients if that lobbyist employer uses the space to host a political fundraiser for a legislative candidate that Gualco would be prohibited from hosting?

2. If a public official other than the candidate attends the fundraising event without charge, will the lobbyist employer have made a gift to the public official by providing a ticket to the event and refreshments at the event?

3. May Gualco host a fundraiser for a legislative candidate in its office space, if the cost of the event is \$500 or less, or allow a lobbyist employer to host a fundraiser in its office space?

4. If a public official other than the legislative candidate attends the office fundraiser without charge, will Gualco or the lobbyist employer have made a gift to the public official by providing admission to the event and refreshments at the event?

5. How does Gualco value the use of its office space used by the lobbyist employer for the fundraiser described in Question 3 above so as to avoid making an in-kind contribution to the legislative candidate benefitting from the fundraiser?

ANALYSIS AND CONCLUSIONS

1. No. Nothing in the Act prevents Gualco from renting property to one of its lobbyist employer clients for any purpose. So long as Gualco receives fair market value for the space, it

has not made an in-kind contribution to the legislative candidate for whom the fundraiser is held. Fair market value, in this case, is the face value of the tickets that comprise the suite (\$896), plus the price of any parking passes included with the rental of the suite.³ All costs associated with holding the event (including the game tickets, food, and any other items purchased in association with holding the event) are in-kind contributions to the legislative candidate from the lobbyist employer hosting the event.

2. Yes. Because the public official has received a payment that provides a personal benefit, he or she will have received a gift from the lobbyist employer valued at the face value of the ticket plus the official's pro-rata share of the food and beverage provided at the event. Regulation 18946.4, which provides a valuation exception for political fundraisers, is only applicable if the ticket is provided at an event hosted by the candidate's committee.

3. The Gualco Group may host a fundraising event for a legislative candidate in its office if the costs related to the fundraising event are \$500 or less exclusive of the fair rental value of the premises (Regulation 18215.1 (c)(3)).

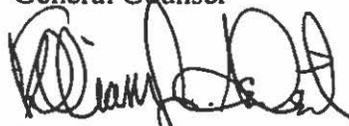
If a lobbyist employer uses the Gualco office space for that purpose, it must pay Gualco the fair market value of the rented space or Gualco will have made a prohibited in-kind contribution to the legislative candidate benefitting from the fundraiser. All costs for the fundraising event held by the lobbyist employer, including the fair market rental value payment made to Gualco for the use of the space, are in-kind contributions from the lobbyist employer to the legislative candidate. The lobbyist employer is not limited by the \$500 threshold.

4. Yes. Because the public official has received a payment that provides a personal benefit, he or she will have received a gift from the lobbyist employer (or Gulaco if it either makes or directs the gift) valued at the official's pro-rata share of the cost of the event. (Regulation 18640). Regulation 18946.4, which provides a valuation exception for political fundraisers, is only applicable if the admission is provided by the candidate's committee holding its own fundraiser, not a third party.

5. The value would be the fair market value of the use of the facilities.
If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel



By: William J. Lenkeit
Senior Counsel, Legal Division

WL:jgl

³ You have indicated that the lobbyist employer will be paying for its own food and beverages.