

April 10, 2013

Ryan Fowler
2100 Venus Drive
Sacramento, CA 95864

Re: Your Request for Advice
Our File No. A-13-037

Dear: Mr. Fowler

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission ("the Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

Must you report tickets to Disneyland for you and your family from a co-worker who has a contact at Disneyland?

CONCLUSION

No. Under the facts presented you are not required to report the tickets to Disneyland. However, you may have a disqualifying conflict of interest on future governmental decisions.

FACTS

You are a Marketing Specialist at the California Lottery. A co-worker at the Lottery has a contact at Disneyland through their previous job at KQCA 58 television station. Your co-worker is able to obtain free tickets to Disneyland through this contact. Your co-worker has offered to get tickets to Disneyland from this contact for you and your family. You have not been in touch with the contact at Disney and Disney is not aware that you would be the recipient of the free tickets.

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.

ANALYSIS

The term “gift” is defined in Section 82028(a) as:

“Any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.”²

Here, your co-worker is able to get you and your family free tickets to Disneyland through a contact they have at Disneyland. As such, you are receiving a personal benefit at no cost to you or your family members. Therefore, the tickets you receive to Disneyland are considered a gift under Section 82028(a).

In an effort to reduce improper influences on public officials,³ the Act regulates the receipt of gifts by public officials. So that the public is made aware of any potential influences from gifts, the Act imposes reporting obligations on certain public officials, requiring that any gift or gifts the official receives that aggregate to \$50 or more in value from the same source during the calendar year are disclosed on the official’s statement of economic interests. Reporting requirements apply to all officials listed in Section 87200 (Section 87202) and employees designated in an agency’s conflict-of-interest code as specified in the code (Section 87302(b)).

A “gift” is reportable only if it is received from a source that the official is required to identify pursuant to the official’s filing obligations under the Act. (Section 18940.1(a)(1)).

As a Marketing Specialist at the California State Lottery, you must file the Statement of Economic Interests pursuant to the California State Lottery’s conflict-of-interest code. Per the conflict-of-interest code for the California State Lottery, you are designated in disclosure category II. Category II designated employees are not required to report free tickets to Disneyland from a co-worker. (California State Lottery Conflict of Interest Code). Therefore, your gift is not reportable under your filing obligations under the Act.

Additionally, the Act prohibits any public official from making, participating in making, or using his or her position to influence the outcome of a governmental decision involving the donor of a gift or gifts with an aggregate value of \$440 or more provided to, received by, or

² Section 82044 defines payment, in part, as any “rendering of . . . services or anything else of value, whether tangible or intangible.”

³ A “public official” is “every member, officer, employee, or consultant of a state or local governmental agency.” (Section 82048.)

promised to the official within the 12 months prior to the date the decision is made. (Sections 87100, 87103(e), Regulations 18700, 18703.4.)

Here, your receipt of the tickets to Disneyland could create a disqualifying conflict of interest over the next 12 months. If that is the case, you may not participate in any governmental decision where it is reasonably foreseeable that the decision will have a material financial effect on anyone who has furnished a gift worth \$440 or more to you within 12 months before the decision.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Caroline Bolton
Graduate Legal Assistant
Legal Division

CB:jgl