BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:	)	
	)	
Opinion requested by	)	No. 75-140
W. A. McCormick, Treasurer	)	March 16, 1976
Los Angeles County Almanac Committee	)	
	)	

BY THE COMMISSION: We have been asked the following question by W. A. McCormick, Treasurer of the Los Angeles County Almanac Committee:

Each year the Los Angeles County Almanac Committee (hereinafter "Almanac Committee") publishes the Los Angeles County Almanac as an informative guide to local government. The Almanac is a non-partisan publication containing information about recent elections, legislative districts and political parties. The Almanac has been approved as a supplemental textbook for the Los Angeles City School District since 1964 and for the University of Southern California since 1966. Approximately 10,000 Almanacs are sold each year at a price of $15.00 per copy, and 95 to 96 percent of these sales are made through the "Almanac Program." Those who participate in the Program pay $15.00 per Almanac to the Almanac Committee, and the Almanacs are distributed directly to approximately 2,500 different educational institutions for use in political science, government or history classes. The buyers may take a charitable deduction of $15.00 for each Almanac purchased through the Almanac Program. Almanacs are not given away or sold at a discount except when purchased directly by an educational institution. If so, the charge is $15.00 to the teacher or administrator and $10.00 to each student. During the last two years, the Almanac Committee's total operating expenses closely approximated the income received from the sale of the Almanacs.[1/]

Until 1972, the Almanac Committee actively engaged in partisan political activity, soliciting contributions from the

---

[1/] In 1974, 6,007 copies of the Almanac were sold. Income totaled $93,175 and expenses incurred amounted to $96,973. In 1973, 8,240 Almanacs were sold. Total income was $130,478 and total expenses incurred amounted to $118,625.

public and making contributions to Republican candidates. After the 1972 General Election, the Committee decided to change its policy and no longer solicit or make contributions. However, after the 1972 General Election, the Committee had a surplus of $30,193.50 which it decided to distribute prior to following its new policy. Accordingly, in 1974, the Almanac Committee contributed $20,237 of the surplus to the Los Angeles County Republican Precinct Committee, and in 1975, it contributed $9,425 of the remaining surplus funds to the same committee. The funds were used for precinct maps and supplies, reverse telephone directories and telephone banks to reach purged voters who had not reregistered. Having disposed of all of the surplus funds from 1972, the Committee has stated that it now will adhere to its policy and not solicit contributions or transfer funds to other committees.[2/]

The Republican Central Committee of Los Angeles County (hereinafter "Republican Central Committee") holds the copyright for the Almanac. However, the Almanac Committee does not receive funds from the Republican Central Committee or from any other committee. Moreover, the Republican Central Committee does not exercise any control over the content of the Almanac.

No member of the Almanac staff is employed full-time by the Almanac, and employees who work on the Almanac also spend part of their time producing the monthly Republican Party newsletter, the Republican Trunkline. All employees receive their salaries from the Republican Central Committee of Los Angeles County, and the Almanac Committee reimburses the Republican Central Committee for that portion of the salary attributable to Almanac activities.[3/]

Should proceeds from the sale of the Los Angeles County Almanac be reported as contributions on semi-annual campaign statements filed by the Committee?

[2/] This information is contained in a letter from W. A. McCormick to Natalie West, Fair Political Practices Commission, December 8, 1975.

[3/] Mr. McCormick has supplied the Commission with a summary of expenditures for the production and distribution of the 1973 and 1974 Almanacs. Letter from W. A. McCormick to Michele Washington, Fair Political Practices Commission, August 19, 1975. Nothing in these figures indicates that the Almanac has made payments in excess of actual expenses to the Republican Central Committee.

CONCLUSION

Payments for the Almanac are not contributions as defined in Government Code Section 82015. Consequently, income from the sale of Almanacs should be reported by the Committee as miscellaneous receipts. Government Code Section 84210.

ANALYSIS

Government Code Section 84206[4] requires every candidate and committee that receives contributions or makes expenditures to file semi-annual statements detailing the contributions to and expenditures made by the committee. Mr. McCormick has asked whether proceeds from the sale of the Almanac are contributions.

"Contribution" is defined by Section 82015 to mean "a payment, ... except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes ...." "Payment" is, in turn, defined by Section 82044 to include a "rendering of money." Thus, when one purchases an Almanac and pays $15.00 to the Almanac Committee, the purchaser makes a "payment." However, we conclude that this payment is not a "contribution" because the purchaser receives full and adequate consideration for the purchase price.[5]

It is true that "full and adequate consideration" requires a stronger showing of equal value than the usual contract standard of "good" or "valuable" consideration.[6] However, in the circumstances posed by this opinion request, the Almanac Committee operated at a deficit last year and realized a small profit in the preceding year. Accordingly, the Committee is not generating surplus funds through the sale of the Almanacs which can be used to influence the action of

---

[4] All statutory references are to the Government Code unless otherwise noted.

[5] Because we conclude that the purchaser receives "full and adequate consideration" for the purchase, we find it unnecessary to determine whether or not the payment is made "for political purposes." Section 82015.

[6] See Horton v. Kyburz, 53 Cal.2d 59 (1959).

the voters for or against candidates or measures. Therefore, the subscriber who pays $15.00 for the Almanac, whether as part of the Almanac Program or for his or her own use, has received full and adequate consideration because each volume of the Almanac costs approximately $15.00 to produce and distribute.

Our conclusion in this matter is supported by the fact that those who participate in the Almanac Program have been allowed to take a charitable deduction of $15.00 for each Almanac purchased. Since the deduction is equal to the fair market value of the property at the time of the contribution, Treas. Reg. 1.170-1(c)(1), the Internal Revenue Service has recognized that the fair market value of the Almanac equals the purchase price.7/ We think that a person who pays fair market value for an Almanac has received full and adequate consideration for the purchase price.

Consequently, those who purchase Almanacs do not make contributions to the Almanac Committee. When the Almanac Committee reports income from the sale of Almanacs, whether sold through the Almanac Program or to individuals for their own use, the funds received should be reported as miscellaneous receipts.8/

Approved by the Commission on March 16, 1976. Concurring: Brosnahan, Carpenter and Lowenstein.

Daniel H. Lowenstein
Chairman

7/Fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Kaiser Co. v. Reid, 30 Cal.2d 610, 623 (1947).

8/Our conclusion in this opinion would not be controlling if the facts indicated that the sale of the Almanac generated surplus funds which were used to support candidates or committees.