



California Fair Political Practices Commission

July 18, 1988

Honorable John Heilman
Councilmember, City of West Hollywood
8611 Santa Monica Blvd.
West Hollywood, CA 90069-4109

Re: Your Requests for Advice
Our File Nos. A-88-260
A-88-266

Dear Mr. Heilman:

Your letters requesting advice about application of Section 85400 of the Political Reform Act, as added by Proposition 73, were received on July 7 and 12, 1988. If you have any questions about your advice requests, you may contact Margarita Altamirano, an attorney in the Legal Division, directly at . (916) 322-5901.

Section 85400 limits to \$1,000 in a calendar year acceptance by an elected official of gifts or honoraria received for speeches, articles or published work concerning the governmental process. As you know, Section 85400 becomes operative on January 1, 1989. Therefore, presently Section 85400 does not apply to gifts and honoraria received by an elected official.

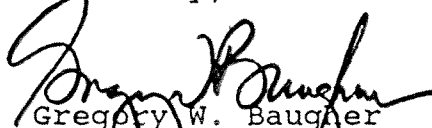
Because of the delayed operative date of most of the provisions of the recently enacted campaign finance reform initiatives and the number of questions regarding implementation, we are attempting to answer questions in an organized and efficient manner. We expect to answer your request in a timely manner, but not within the usual twenty-one working days. (Section 83114(b).) Furthermore, because both your letters request advice about the same section of Proposition 73, we will answer both requests in one letter.

If you have any questions or would like to discuss your request, please call Ms. Altamirano. As Ms. Altamirano has

Honorable John Heilman
July 18, 1988
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explained to you, you should be aware that your letters and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Sincerely,



Gregory W. Baugher
Executive Director



California Fair Political Practices Commission

January 18, 1989

Honorable John Heilman
Councilmember
City of West Hollywood
8611 Santa Monica Blvd.
West Hollywood, CA 90069-4109

Re: Your Request for Advice
Our File No. A-88-260

Dear Councilmember Heilman:

Please excuse my delay in responding to your request for advice regarding application of the provisions of Section 85300 of the Political Reform Act (the "Act"), as amended by Proposition 73, relative to the limitations imposed on gifts and honoraria.

As you are aware, the Commission has been attempting to address the numerous concerns regarding implementation of Proposition 73 through regulations and formal opinions. At its January meeting, the Commission was asked to approve formal notice of proposed Regulation 18540 (copy enclosed). The proposed regulation clarifies the application of the limitation on gifts and honoraria. We anticipate the proposed regulation will be formally noticed for adoption in March.

I have enclosed a copy of the staff's discussion memorandum, along with a copy of the proposed regulation, for your information. You will note that staff is recommending that the limitation not apply to situations where payments received by elected officials are "income" rather than "gifts or honoraria." Included within the definition of income, for purposes of the regulation, are payments received from a bona fide educational or academic institution for classroom teaching (subdivision (c)(2)), and payments received as a consequence of a contract with a publishing house for publication of a book or article (subdivision (c)(3)).

We are currently soliciting comments on the proposed regulation. If approved as noticed, public officials whose profession, outside of public office, is teaching or writing will be able to continue receiving income for such work.

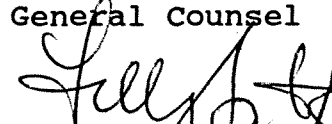
Honorable John Heilman
January 18, 1989
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Any comments you would like to submit regarding the proposed regulation should be directed to the Legal Division, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California 95814.

If you have any questions regarding this response to your inquiry, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

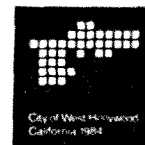
A handwritten signature in black ink, appearing to read "Lilly Spitz", is written over the typed name and title.

By: Lilly Spitz
Counsel, Legal Division

DMG:LS:plh

Enclosure

City of
West Hollywood



City Council

Helen Albert
Mayor
Abbe Land
Mayor Pro Tempore
John Heilman
Stephen Schulte
Paul Koretz

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July 5, 1988

Ms. Diane M. Griffiths, General Counsel
Mr. Robert E. Leidigh, Counsel, Legal Division
California Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, California 95804-0807

Dear Ms. Griffiths and Mr. Leidigh:

In addition to my general concerns regarding Proposition 73's applicability to people who are employed writing or teaching, I have a specific question. Because I am still negotiating the details of this project, I would appreciate it if you would maintain confidentiality regarding this matter.

As you know, the incorporation and development of our city attracted a great deal of international and national attention. I have developed a proposal to write a book about our experience in incorporating the city and in struggling through our first several years of cityhood. The proposal has been met with interest, and I am proceeding to refine and further develop my ideas on this project. Should my proposal be accepted and the book come to fruition, I am curious as to whether Proposition 73 would apply to me. I have serious doubts as to whether any legitimate purpose could be served by applying the provisions of Proposition 73 to my situation, and I also believe that any application in this regard would raise serious first amendment questions. Your analysis and advice would be greatly appreciated.

Thank you once again for your assistance.

Very truly yours,

John Heilman

John Heilman
Councilmember

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City of
West Hollywood

City Council

Helen Albert
Mayor
Abbe Land
Mayor Pro Tempore
John Heilman
Stephen Schulte
Paul Koretz

June 30, 1988

Ms. Diane M. Griffiths, General Counsel
Mr. Robert E. Leidigh, Counsel, Legal Division
California Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, California 95804-0807

Dear Ms. Griffiths and Mr. Leidigh:

I am seeking advice from you regarding the provisions of Proposition 73. I know that you have been deluged with requests regarding the provision which prohibits bulk mailings by government agencies. My request, however, has to do with the provision which prohibits elected officeholders from accepting any gift or honorarium for any speech, article or published work on a subject relating to the governmental process from any single source which is in excess of \$1,000 in any calendar year. As you are aware, many local elected officials receive only a small salary for being councilmembers. Those of us who are not independently wealthy have to work for a living. Some of us make our living by writing and teaching. For example, I annually prepare a book dealing with decisions by the Supreme Court. I am paid over \$1,000 for that work from a single source. What impact will Proposition 73 have on my livelihood?


I also am aware that a number of local elected officials teach classes at colleges and universities regarding the governmental process. Will the provisions of Proposition 73 have any impact on those elected officials who draw a supplemental salary from an educational institution for teaching about the governmental process?

I certainly understand the intent of Proposition 73 and am supportive of some of what the authors were trying to prohibit. My reading of the language, however, indicates

Ms. Diane M. Griffiths
Mr. Robert E. Leidigh
June 30, 1988
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that there are a number of uncertainties created by the initiative. Please provide me with your analysis at your earliest convenience. Thank you for all your hard work and good luck in unraveling the questions created by Proposition 73.

Very truly yours,



John Heilman
Councilmember

JH:bc

P.S. I am requesting confidential advice on a specific matter under separate cover.

cc: Jim Petzke, Supervisor Edmund Edelman's Office
Fred Woocher, The Center for Law in the Public
Interest
Ramona Ripston, ACLU

City of West Hollywood



City Council

Helen Albert
Mayor
Abbe Land
Mayor Pro Tempore
John Heilman
Stephen Schulte
Paul Koretz

JUL 12 8 00 AM 88

July 5, 1988

Ms. Diane M. Griffiths, General Counsel
Mr. Robert E. Leidigh, Counsel, Legal Division
California Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, California 95804-0807

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Thank you once again for your assistance.

Very truly yours,

John Heilman

John Heilman
Councilmember

JH:bc