



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
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March 04, 2022

Amber Maltbie  
Nossaman LLP  
777 South Figueroa Street | 34th Floor  
Los Angeles, CA 90017

Re: Your Request for Informal Assistance  
**Our File No. I-22-013**

Dear Ms. Maltbie:

This letter responds to your request for general advice regarding the campaign provisions of the Political Reform Act (the “Act”).<sup>1</sup> Because your inquiry is general in nature, we are treating your request as one for informal assistance.<sup>2</sup>

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

### QUESTION

For campaign contribution reporting purposes, what is the fair market value of an in-kind campaign contribution of a single campaign-related software license, where the license is purchased from a seller by a third party, such as a political action committee, as a package of licenses at a bulk rate?

### CONCLUSION

The fair market value of the in-kind contribution of a single software license is the price the candidate would pay to purchase the license individually from the seller.

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<sup>1</sup> 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 18109 through 18998 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.

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

**FACTS AS PRESENTED BY REQUESTER**

Your client licenses a digital campaign toolkit, ReadyMade Campaign Tools™, which provides candidates with tools to develop and implement campaign strategy. Candidates gain access to the contents in the toolkit by purchasing a single license. All candidates purchasing the digital toolkit will be charged the same price. However, your client anticipates offering, as standalone products, packages of ten or more licenses marketed to political organizations, such as unions and/or their sponsored political action committees (“PACs”). The per-license cost will be slightly reduced (akin to a bulk discount). For example, if a single license costs \$900, a package of 10 licenses may cost \$7,500, rather than \$9,000, to reflect the discounted bulk rate.

The specific advice requested here is how to value licenses that are provided as in-kind contributions to candidates by the purchaser of the multi-license packages. In particular, if a PAC or other third party purchases a package of 10 or more licenses at the bulk discount rate, and then provides a single license to a candidate as an in-kind contribution, is the fair market value of the license based on the price that the candidate would pay to purchase the license directly from your client, or is it based on the pro-rata purchase price paid by the PAC?

**ANALYSIS**

Under the Act, goods or services that are provided as an in-kind contribution to a campaign committee are valued at their fair market value. (Section 82025.5.) The fair market value is the price at which the candidate could obtain the goods or services on the open market. Additionally, a discounted rate may not be used for the valuation of an in-kind contribution unless the same discount is given in the regular course of business to members of the general public. (Section 82015(b); Regulation 18215(b)(3).) According to the facts, the discount rate only applies to bulk licenses and not an individual sale. Therefore, the fair market value of the single software license for purposes of campaign reporting is the price the candidate would pay to purchase the license individually from the seller.

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

Sincerely,

Dave Bainbridge  
General Counsel

*L. Karen Harrison*

By: L. Karen Harrison  
Senior Counsel, Legal Division

LKH:dkv