

November 1, 1976

Mark Windisch, Attorney  
Weissburg and Aronson, Inc.  
Century City  
1901 Avenue of the Stars, Suite 1400  
Los Angeles, California 90067

176-280

Dear Mr. Windisch:

Thank you for your letter of October 6, 1976, in which you asked about disclosing honoraria on a lobbyist employer report. Under the circumstances you describe, the payment of a \$350 honorarium is not reportable by the trade association, although the legislator will be required to report receipt of the honorarium on his statement of economic interests. Although an honorarium is a "payment which directly or indirectly benefits" an elected state officer and is therefore a payment to influence, Gov. Code Section 82045(c), it is also an "exchange", Section 86109(d) and 2 Cal. Adm. Code Section 18650. The Commission has determined that payments which fall within both definitions should be treated as exchanges, not as payments to influence. An exchange with an elected state officer is reportable pursuant to Gov. Code Section 86109(d) if "the fair market value of either side of the exchange exceeded one thousand dollars (\$1,000)." Consequently, the payment of a \$350 honorarium does not impose any reporting obligations on the lobbyist employer unless the employer made other payments to the legislator for transportation, meals, lodging and so forth which aggregate \$1,000 or more, or the legislator rendered services whose fair market value is \$1,000 or more.

If I can be of further assistance, please contact me.

Sincerely,

Rich Eichman  
Accounting Specialist

RE:bw

bcc: Jeanne P. ✓

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Fair Political Practices Commission  
P O Box 807  
Sacramento, California 95804

Attention: Mr. Richard Eichman

Re: Interpretation of Government Code  
§§ 86109(c) and 82045(c), and  
2 California Administrative Code § 18620

Gentlemen:

This office represents several entities which have filing duties under the California Political Reform Act. In delineating those duties, we have developed questions as to the application of §§ 86109 and 82045 of the Government Code and 2 California Administrative Code § 18620 in the following fact situation:

A trade association which is a "lobbyist employer" pursuant to § 86108(a) of the Government Code asks a state legislator to speak at an association board meeting. The persons at the board meeting include board members and numerous guests. No lobbyist employed by the association is involved in arranging for the state legislator to speak at the meeting.

The state legislator appears at the meeting and gives a speech which lasts approximately forty-five minutes. A question-and-answer period follows for about twenty minutes, during which the state legislator responds to questions from the audience.

Our questions are:

1. If, prior to the meeting, the association promises the state legislator \$350 for speaking, and the association believes that sum to be a reasonable honorarium, does the association have any reporting duties under §§ 86109(c) and 82045(c) with respect to that payment after it is made to the speaker?\*

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2. If no specific honorarium is discussed prior to the speaking engagement, but the association presents a \$350 honorarium to the legislator\* subsequent to the speaking endeavor and the association believes that sum to be a reasonable payment for services rendered, does the association have any reporting duties under §§ 86109(c) and 82045(c)?
3. If the answer to Question 1 or Question 2 is Yes, why does such a "fair market value" speech differ from exchanges of similarly valued (\$350) goods and services in which lobbyist employer and legislator are both involved?

If you have any questions regarding the foregoing, please advise.

Respectfully submitted,

WEISSBURG AND ARONSON, INC.

By



Mark S. Windisch

- \* The \$350 check is given to the legislator directly, as an individual, and is not given to or intended for the legislator's campaign committee.

82045

July 8, 1977

77-279

Mr. Richard A. Baratta, General Manager  
Peace Officers Research Association  
of California  
Senator Hotel  
12th & L Streets  
Sacramento, California 95814

Dear Mr. Baratta:

This letter is in response to our telephone conversation on July 5, 1977 and your letter dated May 26, 1977 addressed to the Political Reform Division of the Secretary of State's Office.

First, you have asked if the cost of tickets purchased to the "Police Chief Kinney Retirement Dinner" is reportable by the Peace Officers Research Association on its periodic lobbyist employer report, Form 650. Section 86109(f) of the Political Reform Act requires lobbyist employers to report on their periodic reports: "The date and amount of each contribution made by the filer and the name of the recipient of each contribution." The Fair Political Practices Commission has defined "Contribution" in 2 Cal. Adm. Code Section 18215, to include any monetary or non-monetary payment for which full and adequate consideration is not made to the donor that is received by or made at the behest of:

- (a) A controlled committee;
- (b) an official committee of a political party;
- (c) an organization formed or existing primarily for political purposes; or
- (d) a candidate, unless it is clear from surrounding circumstances that the payment was received for personal purposes unrelated to his candidacy or status as an officeholder.

Therefore, normally the entire cost of tickets purchased to fund-raising functions will be considered a contribution. However, in the instant case, the cost of tickets purchased to the "Police Chief Kinney Retirement Dinner" is not a contribution and is not reportable because Mr. Kinney is not a candidate.

In addition to the requirement to report contributions, lobbyist employers are required by Section 86109(c) to report payments to influence legislative or administrative action as defined in Section 82045. Based on information you have provided, the payments for tickets to the retirement dinner are not made in connection with attempting to influence legislative or administrative action and accordingly do not have to be reported.

Second, you have asked if a payment to a public relations firm for research and a report on issues involving current legislation is reportable by the Peace Officers Research Association on its periodic lobbyist employer report, Form 650. As previously mentioned, lobbyist employers are required to report payments to influence legislative or administrative action. Therefore, the payment to the public relations firm will be reportable if the research or the report produced:

- (a) Is used to support or assist the association's lobbyist in any way;
- (b) is used for or in connection with communication with state officials by any person;
- (c) solicits or urges any person to enter into direct communication with state officials; or
- (d) benefits state officials directly or indirectly.

If you have any further questions do not hesitate to contact me.

Sincerely,

Alan Herndon  
Compliance Representative

All:bw