

Filer Receives a Gift When He Exercises  
Direction and Control Over It

M-77-493

At the opinion request meeting of June 24, 1977, the staff discussed whether a legislator had received a gift from a racetrack when he asked the track to provide free \$8 passes to four of his constituents.

The staff concluded that the standard for determining whether an official had received a gift in these circumstances was similar to the standard for determining whether a candidate had received a contribution pursuant to 2 Cal. Adm. Code Section 18215(c). That provision states that a candidate has received a contribution whenever an item or service is under his control or direction.

Thus, if the track informs the legislator that complimentary tickets to the track are at his disposal, the track will have made a gift to the legislator. In addition, a gift will have been made if a pattern of conduct emerges whereupon the legislator frequently asks that complimentary tickets be provided by the track for his constituents and the track honors such requests. However, a gift will not have been made if, on a rare occasion, the legislator asks a friend of his at the track to do a favor for several of his constituents.