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State of California



Fair Political Practices Commission

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May 19, 1978

Honorable John T. Knox
Member, California Assembly
State Capitol, Room 2148
Sacramento, CA 95814

A-78-05-009

Dear Assemblyman Knox:

This letter responds to your inquiry concerning a testimonial dinner that will be held to honor a retiring member of the California Assembly. As I understand the facts, approximately 500 persons will purchase tickets to attend the event. Each ticket will cost \$15, of which \$13 will cover the actual cost of the meal. The dinner is being planned by a group of close friends and associates. Several lobbyists wish to participate in the planning. The individuals planning the dinner wish to pay for some of the specific costs of the testimonial, for instance, the printing of the invitations. You asked what reporting requirements and restrictions are imposed by the Political Reform Act ("Act") on this situation.

Your question involves two separate issues:

1. What reporting obligations, if any, will the retiring Assemblyman incur as a result of the dinner?
2. What restrictions apply to lobbyists who wish to participate in planning the dinner and to pay for the cost of printing invitations or other costs associated with the dinner?

With regard to the first issue, the retiring Assemblyman will receive a benefit that could be characterized as either a contribution or a gift. In virtually all cases, receipts from a dinner honoring an officeholder are deemed to be contributions, because the dinner is held for political purposes. Government Code Section 82015,^{1/} 2 Cal. Adm. Code

^{1/} All further statutory references are to the Government Code.

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Section 18215(b)(1). However, it is my understanding from your conversation with Dan Lowenstein and my conversation with your assistant Marcy Kates that the dinner will not be held to accumulate funds that the Assemblyman will use for any political purposes, such as paying off past debts or making contributions to other candidates in elections. Moreover, since the Assemblyman is retiring, he will not use the receipts to participate in future campaigns.

In the instant case we understand the only items of value the Assemblyman will receive are one free ticket and other possible gifts.^{2/} Thus, in this particular situation, the Assemblyman receives a benefit which is more appropriately characterized as a gift than as a contribution.

The Act requires disclosure of any gift of \$25 or more on the Assemblyman's Statement of Economic Interests. The value of the gift received by the Assemblyman is the per capita cost of giving the dinner. Opinion requested by Annie Gutierrez, 3 FPPC Opinions 44 (No. 76-081, June 7, 1977). (A copy of that Opinion is enclosed.) You have informed us that the dinner will cost approximately \$13 per person but that certain additional costs will be incurred, such as the expenses of printing invitations and purchasing decorations. Thus, the per capita cost should be determined by calculating the total cost of the event, including the additional expenses, and dividing that amount by the number of persons who attend. If the per capita cost of the event is less than \$25, the retiring Assemblyman has no reporting obligation. However, if any part of the proceeds is used to purchase a gift for the Assemblyman, he should combine the per capita cost of the event with the value of the gift. The gifts are reportable if the aggregate value equals or exceeds \$25. The legislator is not required to disclose the name of each donor so long as no individual donor's share of the gifts is \$25 or more. Instead, he may include an appropriate designation that accurately describes the group of people making the gift. Opinion requested by Art Torres, 2 FPPC Opinions 31 (No. 75-163, Feb. 4, 1976).

^{2/} Although the Assemblyman will also receive an intangible benefit by being honored, we do not believe that benefit need be valued and reported in this situation.

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With regard to the restrictions applicable to lobbyists who wish to attend the event, Section 86203 provides that it is "unlawful for a lobbyist to make gifts to one person [elected state officer] aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person." The testimonial dinner is being planned by a group of close friends and associates that includes several registered lobbyists. Because the members of this group will be participating in a common plan to provide a benefit to the retiring official, in excess of \$10, we believe that the lobbyists are participating in an arrangement within the meaning of Section 86203. Therefore, the lobbyists will be prohibited from participating in the group that is planning the dinner and from making payments to cover specific costs associated with the dinner.

However, lobbyists are not prohibited from purchasing tickets and attending the dinner, because the ticket price includes, at most, two dollars that could be used to make a gift benefiting the Assemblyman.^{3/} A lobbyist who purchases a ticket must report the cost as an expense related to his activities as a lobbyist. Section 86107.

I hope this information is helpful. If you have further questions, please contact me.

Sincerely,

Barbara Campbell

Barbara Campbell
Counsel
Legal Division

BC:plh
Enclosure

^{3/} If payments for the event are characterized as contributions, lobbyists are prohibited from purchasing tickets or making any other payments in connection with the dinner. Sections 86200 and 86202 prohibit lobbyists from making contributions to elected state officers.

Memorandum

To : Opinion Request Meeting Participants

Date : May 12, 1978

From : FAIR POLITICAL PRACTICES COMMISSION
Natalie West

Subject: Letter to Assemblyman John T. Knox

Attached find a draft letter to Knox. Please read it, especially the response to question 2. The specific question I have is whether the gift from the lobbyist is equal to the payments by lobbyists divided by number of people who attend, or the payments by all persons divided by number of persons who attend;

Some late breaking facts:

- (1) Tickets will cost \$15, \$13 for meal plus \$2 for gift and extras.
- (2) Dinner is being planned by a group of close friends and associates of Lanterman. This group is the group that will make payments for invitations, flowers, etc. and, includes some lobbyists. They won't solicit other lobbyists.

NEW:plh
Attachment