

# State of California



# Fair Political Practices Commission

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April 4, 1978

Kent Goble  
Greyhound Lines, Inc.  
715 "L" Street  
Sacramento, California 95814

Dear Mr. Goble:

Thank you for your letter of March 9, 1978 inquiring about the applicability of various provisions of the Political Reform Act ("Act"), if you are required to register as a lobbyist.

Your first question concerned the disclosure and prohibition provisions of the Act and how they would apply to transactions between yourself and your wife, a member of the staff of the Governor's office. In your letter, you indicated that your wife's duties are not solely clerical, secretarial or ministerial in nature, so that she would meet the definition of "agency official" contained in Government Code Section 82004. You indicated in our phone conversation on March 6, 1978 that the Governor's office is an agency whose actions you will attempt to influence as a registered lobbyist.

The lobbyist disclosure and prohibition provisions of the Political Reform Act will apply generally to you in the same manner as they do to any other lobbyist. However, in certain instances, provisions involving transactions with your spouse will be treated differently.

The specific provisions of the Act that would normally apply include the following Government Code Sections:

- 36107 - This section requires a lobbyist to disclose information regarding his or her lobbying activities including, but not limited to, itemization of each payment which benefits an agency official, itemization of exchanges with an agency official or a member of the official's immediate family, and itemization of exchanges with a business entity in which an agency official is a proprietor, partner, director, officer, manager or a 50% owner.

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86203 - This section prohibits a lobbyist from making, arranging for, or acting as an agent or intermediary in the making of, gifts aggregating more than \$10 in a calendar month to a state candidate, an elected state officer, a legislative official or an agency official.

Although a literal application of the provisions in Government Code Sections 86107 and 86203 would impose restrictions and disclosure requirements on transactions between you and your wife, we do not believe that a literal application furthers the purposes of the Act when a lobbyist is married to an agency official. Consequently, we conclude that the Act's provisions in those Sections should not apply unless:

1. you are reimbursed by your employer for any part of any expense that benefits your wife, or;
2. you deduct any expense which benefits your wife on any tax return.

While we have determined that the provisions of Government Code Sections 86107 and 86203 should not apply to transactions between you and your wife, we nevertheless observe that Government Code Section 87100 applies to the actions of your wife. Section 87100 states:

"No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Since "financial interest" includes a community property interest in the spouse's income of \$250 or more in value, your wife should disqualify herself from participating in any decision that will have a material financial effect on your employer.

Your second inquiry concerned the reporting of your participation, on behalf of your employer, in study and advisory groups which require industry participation. The groups in question are administered by the State. The Fair Political Practices Commission has established guidelines for reporting payments to persons who serve on advisory groups and boards in the Opinion requested by John C. Morrissey, 2 FPPC Op. 84 (No. 75-099, July 6, 1976) and the Opinion requested by Robert C. Herr, 3 FPPC Op. 11 (No. 75-208, February 1, 1977). Copies of those opinions are enclosed. Those opinions state that if it is determined that the individual serving on the group or board is an agency official, as defined in Government Code Section 82004, then the payments to the person for compensation or expense reimbursements while serving on the group or board must be disclosed by the

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employer on the lobbyist employer's report as an exchange with an official.

To determine whether the individual serving on the group or board is an agency official, a determination must first be made as to whether the group or board is a state agency as defined in Government Code Section 82049. The Commission has adopted a regulation, 2 Cal. Adm. Code Section 18249, which establishes four criteria for determining if a group or board is a state agency. I am enclosing a copy of that regulation.

If the group or board is a state agency, within the Act, then a determination must be made regarding whether the individual has decision-making authority, thus qualifying the individual as an agency official. If the individual is an agency official the employer must report payments to the individual as exchanges. It should be noted that if the individual serving on the group or board is a lobbyist, regardless of whether or not the individual is deemed to be an agency official, the lobbyist will not have to disclose any transactions in connection with the group or board on the lobbyist's periodic report.

In your letter, you requested a determination of the status of two specific study and advisory groups. However, your letter does not provide enough information to enable us to make the requested determination. I believe that the information contained in this letter and the enclosed opinions and regulation will allow you to make that determination.

If you have any questions or if you are unable to make a determination of the status of your service on the study and advisory groups, do not hesitate to contact me.

Sincerely,

Alan Herndon  
Compliance Representative

AH:bw

Enclosure



Greyhound Lines, Inc.

715 L Street  
Sacramento, Ca. 95814

78103

March 9, 1978

Mr. A. Herndon  
Fair Political Practices Commission  
1100 K Street  
Sacramento, California 95814

Dear Mr. Herndon:

I submit the following questions pursuant to our telephone conversation of March 6 regarding my anticipated registration as a lobbyist for Greyhound Lines.

I anticipate that this line of work will occasionally necessitate that my wife accompany me to social and business functions. It is my understanding that employer reimbursement of her expenses at these functions would ordinarily be included in "Personal Maintenance Expenses" on Form 620 or 625. My question deals with the status of my wife's employment with the State. She supervises the Correspondence Section in the Governor's office and is classified as a Records Management Analyst. Her employees are responsible for processing mail between the general public and the Governor's staff. While her position extends beyond the "clerical" or "secretarial" category, I hope you will agree that her activities should not be considered "quasi-legislative". In my opinion, attributing the latter status would activate the "itemizing" and "\$10 per month" provisions, thus ascribing greater intent and effect to the expenditure than is realistic.

My second request is for a determination of the status of various study and advisory groups administered by the State which require industry participation. This determination would assist me in allocating lobbying and non-lobbying time for reporting purposes on Forms 620 and 625. For purposes of specificity, I submit two current projects. One, the West Coast Corridor Study, is explained briefly in the enclosed booklet.

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A second example would be the advisory groups created by SB 1879, Chapter 1349, 1976. This bill, after appropriating various sums of money for transportation and interface projects, states in part:

"The Department (CanTrans) shall be responsible for the administration, implementation, marketing and evaluation of the projects. The Department shall seek the assistance of an advisory group for each project.

"The Secretary of the Business and Transportation Agency shall appoint the advisory groups, which shall include representatives from user groups, consumer groups, the various public and private transit operators serving the area in which the corridor is located, the transportation planning agencies having jurisdiction of the areas within the corridor, the Public Utilities Commission, and other public and private entities affected by the project."

I would appreciate an opinion on the above matters at your earliest convenience. Please feel free to contact me if you require additional information.

Cordially yours,

Kent Goble  
Special Representative