



California Fair Political Practices Commission

May 11, 1987

Sam W. Jennings
Chief Administrative Law Judge/Executive Secretary
New Motor Vehicle Board
1504 21st Street, Suite 330
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-87-111

Dear Mr. Jennings:

You have requested advice concerning your duties under the conflict of interest provisions of the Political Reform Act (the "Act")^{1/}. This letter confirms advice which I provided to you in a recent telephone conversation.

QUESTION

1. May you accept an offer from a private business entity to pay your travel, hotel expenses, and registration fee in connection with your participation as a panel member in a national conference?

2. If you accept the offer, what are your reporting responsibilities under the Act?

CONCLUSION

1. You are not prohibited, under the Act, from accepting the offer to have your travel, hotel, and registration expenses paid. If the value of the travel expenses is \$250 or more, you may not participate in any decision which will have a reasonably foreseeable material financial effect on the business entity which paid the travel expenses. You should also analyze whether acceptance of the expenses is prohibited under your agency's statement of incompatible activities.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

2. If your agency's conflict of interest code requires you to disclose income from business entities of this type, you must disclose the business entity as a source of income (gifts) on your statement of economic interests. We have not been provided with sufficient facts to make this determination.

FACTS

J.D. Power and Associates is a marketing information company. It does not have business before the New Motor Vehicle Board. You have been invited by J.D. Power and Associates to participate as a panel member at a national conference, which they are sponsoring, on the future of the automobile franchise system. The conference will be held in Chicago, Illinois. Power and Associates has offered to pay your travel and hotel expenses and to waive the conference registration fee in connection with your participation.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or attempting to influence a governmental decision in which he knows, or has reason to know, he has a financial interest. A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family, or on:

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(e).

Thus, the Act does not prohibit a public official from accepting gifts. It merely requires the official to disqualify himself from decisions which will have a reasonably foreseeable material financial effect on the source of the gift. However, you should determine whether your agency has adopted a statement of incompatible activities which prohibits acceptance of the gift.

Regulation 18728(a) (copy enclosed) provides that free admission, food, beverages, and similar nominal benefits provided to a filer at an event at which an official speaks,

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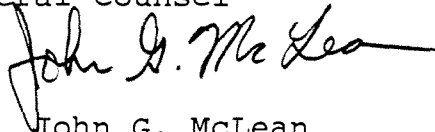
participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel and for necessary accommodations provided directly in connection with the event are not gifts, are not reportable, and do not form the basis for disqualification. Since the conference that you will be attending is to be held outside California, the travel expenses would constitute a gift. However, necessary accommodations and other expenses would not constitute gifts so long as they are provided directly in connection with the conference.

If the total gift provided to you by J.D. Power and Associates has a value of \$250 or more, you will be prohibited, for a period of 12 months, from participating in any decision which will have a reasonably foreseeable material financial effect on J.D. Power and Associates. (Section 87103(e).) In addition, since the value of the gift is undoubtedly \$50 or more, you must disclose the gift on Schedule F of your statement of economic interests if J.D. Power and Associates is the type of business entity from which you are required by your agency's conflict of interest code to disclose income, including gifts. (Sections 87207 and 87302.) You have indicated that J.D. Power and Associates does not have business before the board. However, this is not the only criteria for determining whether a gift from J.D. Power and Associates is disclosable. We have enclosed a copy of the disclosure categories assigned to you under your agency's conflict of interest code. You should review these categories to determine whether the gift from J.D. Power and Associates is disclosable.

If you have any questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: John G. McLean
Counsel, Legal Division

DMG:JGM:jaj
Enclosures

NEW MOTOR VEHICLE BOARD

1507 - 21st Street, Suite 330
Sacramento, CA 95814
(916) 445-1888

F P P O
APR 10 10 21 AM '87



April 9, 1987

Ms. Diane Griffiths
General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Ms. Griffiths:

I have been invited by J. D. Power & Associates to participate as a panel member at a May 28-29, 1987 national conference on the Future of the Automobile Franchise System. The attached materials include a tentative agenda, a brochure describing the J. D. Power firm and an explanation of the purpose for the conference.

As conference sponsor, J. D. Power & Associates has offered to pay my travel and hotel expenses in connection with my participation. J. D. Power & Associates is a marketing information company and as such, does not have business before the New Motor Vehicle Board. My purpose in writing this letter is to solicit an official interpretation as to the propriety of my accepting the offer to pay for expenses associated with this trip. Would my acceptance be considered a conflict of interest? What reporting requirements, if any, would be required on my annual conflict of interest statement?

Inasmuch as the conference dates are May 28-29, I would appreciate your early review and consideration of this request.

Sincerely,


SAM W. JENNINGS
Chief Administrative Law Judge/
Executive Secretary

SWJ:hs

Enclosure

J.D. POWER
AND ASSOCIATES

April 3, 1987

Sam Jennings
Chief Admin. Law Judge,
New Motor Vehicle Board
1507 21st St., Suite 330
Sacramento, CA 95814

Dear Sam:

I enjoyed our chat and am delighted to learn of your interest in participating in our National Conference.

I've enclosed a tentative agenda, a promotional flyer and a company brochure.

As I mentioned, J.D. Power and Associates is an independent, privately owned company. Although automotive manufacturers are among our clients, we owe allegiance to no one. In fact, we take pride in "owning our own soul."

If allowed at your end, we'd be more than happy to pick up your travel and hotel expenses and intend, in any event, to waive the registration fee, as we are doing for all program participants.

The panel we have you on is pretty "heavy-duty." I just got a thumbs-up from John Woodcock, the so-called Father of the Lemon Law.

I believe you'll find the Conference to be of professional value to you, and certainly your role in it will serve to strengthen its substance.

I look forward to hearing from you soon.

Yours truly,


Thomas F. Black

Enclosures (3)

TFB/ad/kim:46

A Marketing Information Company

31225 La Baya Drive

Westlake Village, CA 91362

(818) • 889 • 6330 FAX (818) • 889 • 3719



California Fair Political Practices Commission

April 13, 1987

Sam W. Jennings
Chief Administrative Law Judge/
Executive Secretary
New Motor Vehicle Board
1507 - 21st Street, Suite 330
Sacramento, CA 95814

Re: 87-111

Dear Mr. Jennings:

Your letter requesting advice under the Political Reform Act was received on April 10, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John G. McLean, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).) You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh