



California Fair Political Practices Commission

December 8, 1987

Mr. Daniel Pellissier
1585 Pebblewood Drive
Sacramento, CA 95833

Re: Your Request for Advice
Our File No. A-87-280

Dear Mr. Pellissier:

You have requested advice concerning your reporting obligations under the conflict of interest disclosure provisions of the Political Reform Act.^{1/}

FACTS

As an exempt legislative employee (associate consultant with Senator Maddy), you are required to file an annual statement of economic interests disclosing certain personal financial interests. This year, you are going to be married to the administrative aide of a registered lobbyist.

QUESTIONS

(1) What is the method for reporting your spouse's monthly salary, health benefits and parking privileges?

(2) Does your subleasing of a parking space from your spouse's employer require any special reporting?

(3) What rules must you follow in reporting your wedding gifts from legislators, lobbyists, exempt employees, and other friends?

CONCLUSIONS

(1) You must report your community property interest in your spouse's income. Your community property interest is 50%. In computing your community property interest in your spouse's income, you are not required to include the employer's payments for health

^{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.

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benefits, parking privileges or any other routine benefits which are provided by your spouse's employer to all employees as a regular part of the employment package.

(2) The subleasing of a parking space from your spouse's employer does not require any special reporting by you so long as you are paying the fair market value of the parking space.

(3) With certain exceptions, such as for gifts from specified family members and for gifts which are not used and are returned or donated to charity, you must report on your statement of economic interests all wedding gifts with a value of \$100 or more received by you and your spouse. However, as a legislative employee, you are prohibited from accepting wedding gifts with a value of more than \$20 from a lobbyist or a lobbying firm.

ANALYSIS

Section 82030 defines income, in part, as:

Any payment received, including but not limited to any salary, wage, advance, ... and including any community property interest in income of a spouse.

Generally, you must report your 50% community property interest in all income of your spouse. However, in computing "income," officials are not required to include health benefits and other routine employment benefits which are provided by the employer to all employees. This conclusion is based on previous Commission advice in the campaign and lobbying areas. In the lobbying area, in the advice letter to Frederick K. Lowell (No. A-84-240, copy enclosed), it is stated:

...We have determined that the additional benefit which the public would receive from reporting these routine fringe benefits ... is minimal, and that requiring the information poses a significant burden on lobbyist employers....

The same reasoning would appear to apply with regard to reporting compensation received by public officials. Therefore, we conclude that, when reporting the community property interest in the salary of a privately employed spouse, public officials are not required to include routine fringe benefits which are provided by an employer on behalf of all employees.

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With regard to the parking space you sublease for your own use from your spouse's employer, Section 82028 defines "gift" as:

Any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value...

Therefore, so long as you have paid the fair market value of the parking space, you have not received a "gift," and you are not required to report the transaction on your statement of economic interests. If you do not pay fair market value for the space, you must report the discount received as a gift. As discussed below, you may not accept a gift from a lobbyist or a lobbying firm with a value of more than \$10 per month.

With regard to wedding gifts, the Commission has provided that:

Wedding gifts should be considered the property of both spouses unless they are peculiarly adaptable to the personal use of one spouse or specifically and unequivocally intended exclusively for use by one spouse.

Torres Opinion, 2 FPCC 31
(No. 75-163, Feb. 4, 1976.)

(See also Regulation 18726.5, copy enclosed.)

Therefore, because the threshold for reporting gifts is \$50.00, you only are required to report gifts received by you and your spouse with a value of \$100 or more.

With regard to wedding gifts received from a lobbyist, as a legislative official, you are prohibited from receiving gifts aggregating more than \$10 in a calendar month from a lobbyist or a lobbying firm. (Sections 86201, 86203 and 86204.) Therefore, since you are deemed to have a one-half interest in all gifts received by you and your spouse, you may not accept a wedding gift with a value of more than \$20 from a lobbyist or a lobbying firm .

Section 82028 provides certain exceptions from the definition of "gift." The exceptions which may apply to wedding gifts you receive are:

Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes. (Section 82028(b)(2).)

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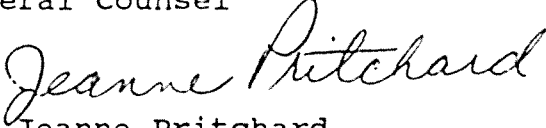
Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

I have enclosed for your information the Commission's Torres Opinion, 2 FPPC 31, and the advice letter issued to Assemblyman Gray Davis (FPPC No. A-83-088, March 31, 1983), which also discuss other related issues concerning wedding gifts.

I hope this provides adequate guidance to you in reporting wedding gifts and the other related matters. If you have any questions, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel


By Jeanne Pritchard
Division Chief,
Technical Assistance and
Analysis Division

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California State Senate

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KENNETH L. MADDY
SENATOR, FOURTEENTH DISTRICT
REPUBLICAN FLOOR LEADER

November 2, 1987

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PATIENT CARE
PACIFIC RIM

Ms. Jeanne Pritchard
Technical Assistance and Analysis Division
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804

Dear Ms. Pritchard,

As an exempt legislative employee (Associate Consultant with Senator Maddy) I want to ensure that I am in full compliance with the economic interest reporting laws.

The purpose of this letter is to inquire whether my marriage later this month to the administrative aide of a registered lobbyist will require any additional reporting. Specifically:

1. How shall I report her monthly salary, health benefits, and parking privileges?
2. Does my subleasing of a parking space from her employer require any special reporting?
3. What rules must I follow in reporting my wedding gifts from legislators; lobbyists; exempt employees; and other friends?

Your prompt reply to this inquiry will be greatly appreciated. Please mail your response to my home.

Sincerely,

A handwritten signature in cursive script that reads "Daniel F. Pellissier".

Daniel Pellissier
1585 Pebblewood Drive
Sacramento, CA 95833

87-280

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KENNETH L. MADDY
SENATOR, FOURTEENTH DISTRICT
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November 2, 1987

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California Fair Political Practices Commission

November 4, 1987

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1585 Pebblewood Drive
Sacramento, CA 95833

Re: 87-280

Dear Mr. Pellissier:

Your letter requesting advice under the Political Reform Act was received on November 4, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

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 more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. 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,

Jeanne Pritchard by jpb
Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh