



California
Fair Political
Practices Commission

July 28, 1988

Joseph Remcho
Remcho, Johansen & Purcell
220 Montgomery Street, Suite 800
San Francisco, California 94104

Re: Your Request for Advice
Our File No. I-88-254

Dear Mr. Remcho:

You have requested advice under the conflict of interest disclosure provisions of the Political Reform Act.^{1/} Because your letter does not provide the identity of the client on whose behalf you have requested advice, we treat your letter as a request for informal assistance.^{2/}

QUESTION

If a public official accepts an invitation to join a friend on a vacation and stays at the friend's vacation home (with the friend), has the official received a reportable gift?

CONCLUSION

A public official who stays with a friend at the friend's vacation home has not received a reportable gift.

ANALYSIS

The Act requires that public officials disclose on annual statements of economic interests (Form 721 or Form 730) gifts with a value of \$50 or more. (Section 87207(a).) "Gift" is defined in Section 82028 to mean, with certain specified exceptions, "any

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

^{2/}Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

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payment to the extent that consideration of equal or greater value is not received...." "Payment" is defined in Section 82044 as a "... distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible."

In addition to the exceptions in Section 82028, Regulation 18727 provides that the term "gift" does not include:

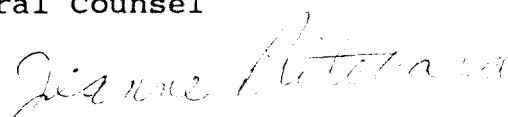
the value of gifts of hospitality involving food, beverages or lodging provided by an individual in his or her home to any public official....

The Commission has determined that the exception for home hospitality provided to an official also applies to a person's vacation home so long as the person is present when the official stays at the home. (See Advice Memo No. A-78-099, copy enclosed.)

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel


By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

Memo to File

December 29, 1978

From: Rich Eichman

Re: Gift to State Officials

At the opinion request meeting on December 4, 1978, the following decisions were made regarding cabin lodging provided by lobbyists to state officials.

1. Providing cabin lodging to an official is home hospitality when a lobbyist invites the official to stay at the lobbyist's cabin overnight and the lobbyist also stays at the cabin overnight.
2. Providing cabin lodging to an official is a gift when a lobbyist invites the official to stay at the lobbyist's cabin overnight and the lobbyist does not stay at the cabin overnight.
3. The value to be placed on a gift of cabin lodging is the fair market value for the use of the cabin.
4. A gift of cabin lodging is a gift only to the official. The gift cannot be apportioned among all who stay overnight.
5. How or when the invitation is extended does not affect the above conclusions.

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415/398-6230 FAX: 415/398-7256

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June 29, 1988

Jeanne Pritchard
Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, California 95804-0807

Dear Jeanne:

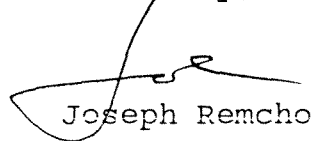
I know these are busy days for you, but I have a client who doesn't want to take my word for a simple proposition and I would appreciate a letter from your office confirming my advice. The question is:

. If a public official accepts an invitation to join a friend on a vacation and stays at that person's vacation home (with the person), has the official received a reportable gift?

It appears to me to be clearly covered by the second home hospitality regulation, but I would appreciate a letter confirming that there is no reportable gift.

Thanks a lot.

Sincerely,



Joseph Remcho

JR:lmf

REMCHO, JOHANSEN & PURCELL

ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415/398-6230 FAX: 415/398-7256

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July 1, 1988

Kathryn E. Donovan
Counsel, Legal Division
Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

Dear Ms. Donovan:

We represent the California Trial Lawyers Association. On behalf of the Association and its members, we are writing to request informal assistance regarding campaign reporting duties of individual member attorneys and their law firms under the Political Reform Act.

Many of the Association's member attorneys make substantial campaign contributions, including member attorneys who practice together as partners. We would like guidance regarding the reporting obligations of individual attorneys and/or their law firms under the following circumstances:

A law firm is composed of five partners. Each partner normally takes a monthly draw against his or her estimated share of annual net partnership income. The amount of these draws is calculated to leave an undistributed amount at year-end sufficient to adjust the final distribution of income among the partners after final calculations of their shares can be made.

In June, 1988, the five partners agree that, beginning in June, each will take an additional monthly draw out of this reserve in an amount sufficient to enable each to make an after tax contribution in the amount of \$2,000 to a particular "primarily formed committee" within the meaning of Government Code section 82047.5. These additional draws do not increase the total annual income of each partner, but merely advance the time at which it is distributed. In June, each partner takes the additional draw, and each makes a contribution of \$2,000 to the primarily formed committee in the form of a check drawn on his or her individual checking account.

Kathryn E. Donovan
Counsel, Legal Division
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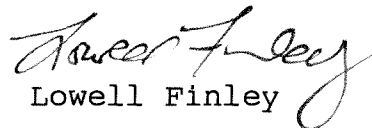
Neither the partnership nor the individual partners has made or will make any other political contributions during the calendar year. Must these contributions be aggregated, so that the partnership, or the group of five partners, must file a campaign statement on or before July 31st as a major donor committee by virtue of having made contributions of \$10,000? Or is each attorney considered a separate donor, so that major donor campaign reporting obligations will accrue for each individual attorney in October, 1988, when that attorney's aggregate contributions during the calendar year reach \$10,000?

Would the result change if the partnership were a professional corporation?

We would appreciate an early response, so that members of the Association may be advised well in advance of the July 31, 1988 filing deadline for major donor reports covering the period January 1, 1988 through June 30, 1988.

Thank you for your assistance.

Sincerely,


Lowell Finley

LF:ph



California Fair Political Practices Commission

July 7, 1988

Lowell Finley
Remcho, Johansen & Purcell
220 Montgomery Street, Suite 800
San Francisco, CA 94104

Re: 88-254

Dear Mr. Finley:

Your letter requesting advice under the Political Reform Act was received on July 6, 1988 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. Code of Regs. 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 plh*

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh