



# California Fair Political Practices Commission

January 11, 1991

Mark Fogelman, Counsel  
Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Re: Your Request for Informal Assistance  
Our File No. I-90-618

Dear Mr. Fogelman:

This is in response to your request for advice regarding the conflict-of-interest and other provisions of the Political Reform Act (the "Act").<sup>1</sup> Because your request is in the nature of general guidance, we are treating your request as one for informal assistance pursuant to Regulation 18239(c) (copy enclosed).<sup>2</sup> The advice is limited to your duties and responsibilities under the Act since we cannot provide third-party advice.

### QUESTION

If the California Public Utilities Commission (CPUC) reimburses you for the cost of air transportation and hotel accommodations for your participation as a panelist at a conference in Washington, D.C., and the CPUC is, in turn, reimbursed by the corporation holding the conference, will the corporation's reimbursement constitute a gift or income to you?

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<sup>1</sup> Government Code Section 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, Divisions 6 of the California Code of Regulations.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18239(c)(3).)

### CONCLUSION

Based on the facts provided, the reimbursement by the World Expo Corporation, the corporation holding the conference, to the CPUC will not constitute a gift or income to you.

### FACTS

The World Expo Corporation, a subsidiary of International Data Group (IDG), has invited the California Public Utilities Commission (CPUC) to provide a panelist at the Comnet '91 Conference scheduled for January 29, 1991, concerning the legal implications and developments likely to occur in the telecommunications industry. You are a designated employee of the CPUC and may be the Legal Division representative of the CPUC assigned to participate in the panel. The corporation has offered to reimburse the CPUC for the cost of the participant's round-trip coach non-stop air fare from California to Washington, D.C., and for one night's hotel rate (government or conference rate, if possible). The CPUC representative will be reimbursed by the CPUC for his or her expenses as out-of-state travel on state business. The CPUC will, in turn, bill the World Expo Corporation to recover the air fare and hotel expenses.

### ANALYSIS

The thrust of your question is whether the reimbursement of the cost of air transportation and hotel expenses by the World Expo Corporation to the CPUC, a state agency, will constitute a gift or income to you, giving rise to a conflict-of-interest or other problem under the Act. Income or gifts valued at \$250 or more received by a public official during the preceding 12 months may require disqualification from any decision which will have a reasonably foreseeable material financial effect on the donors which is distinguishable from the effect on the public generally. (Section 87103.)

### Income

You are a public official of a state agency as defined in Section 82048. In your letter you have stated that if you are selected to be the agency representative, you will be reimbursed by the CPUC for your travel expenses as a normal out-of-state travel on state business. Reimbursement for expenses or per diem received from a state agency is excluded from reporting as income under Section 82030(b)(2). Therefore, such reimbursement would not constitute income to you, giving rise to a conflict-of-interest or reporting obligation under the Act.

Direct Reimbursement

The result may differ if the corporation reimburses you directly for your travel expenses. In such case, the reimbursement of travel expenses may be a reportable gift or income to you. We have advised that reimbursements for travel and expenses by private parties to officials are gifts to the officials when traveling on official business unless the provision of travel expenses meets specified criteria set forth in In re Stone (1977) 3 FPPC Ops. 52 (copy enclosed). (Also, see Kolodney Advice Letter, No. A-87-182 and Knox Advice Letter, No. A-90-284, copies also enclosed.)

Please note that beginning January 1, 1991, gifts to designated employees<sup>3</sup> valued at more than \$250 from any single source in a calendar year are prohibited if the employee is required to report the receipt of income or gifts from that source on his or her statement of economic interest. (Section 89505.) Gifts of \$50 or more continue to be reportable on financial disclosure statements. (Section 87207(a)(1).) Since your travel expenses are not reportable income or gifts under the facts presented, it is not necessary to apply Section 89505. The new law also provides that travel which is provided by the agency of an elected state officer, member of a state board or commission, or a designated employee is not a gift subject to the \$250 limit. (Section 89506(d)(2).)

In summary, you have indicated that you are a designated employee of a state agency. If you are selected to be the agency representative you will be reimbursed by the CPUC for your travel expenses to a conference in Washington D.C. on January 28 and 29, 1991. Travel provided to you by the agency, therefore, is not reportable income or gift to you provided the travel is treated as a normal out-of-state travel on state business.

I trust this letter has provided you with guidance you requested. I apologize for not responding to you earlier. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin  
Acting General Counsel



By: Luisa Menchaca  
Counsel, Legal Division

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Enclosures

<sup>3</sup> The Act defines "designated employee" in Section 82019.