



# California Fair Political Practices Commission

April 29, 1991

Judith Sproul Davis  
NIELSEN, MERKSAMER, HODGSON,  
PARRINELLO & MUELLER  
770 L Street, Suite 800  
Sacramento, CA 95814

Re: Your Requests for Informal  
Assistance  
Our File No. I-91-136

Dear Ms. Davis:

You have requested confirmation of telephone advice provided to you concerning the application of Regulation 18531.5 to the new provisions of the Political Reform Act (the "Act")<sup>1</sup> limiting gifts and honoraria. Since your questions are general in nature and you have not named a specific elected official on whose behalf you have requested this advice, we are treating your letter as a request for informal assistance.<sup>2</sup>

This letter confirms that your letter dated February 27, 1991, accurately summarizes the telephone advice I provided to you on December 13, 1990. Specifically, I advised that the Commission staff is currently interpreting the term "single source," as used in the Act's new gift and honoraria provisions, consistent with how that term is defined in Regulation 18531.5. I also advised that the staff will be proposing modifications to Regulation 18531.5 in the near future. Set forth below is an explanation of why the Commission staff is currently relying on Regulation 18531.5 and the necessity for its modification.

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<sup>1</sup> 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.

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

As we discussed, new provisions added to the Act effective January, 1991 now restrict the ability of some elected officers and public officials to receive gifts and honoraria. For example, Section 89501 provides:

No local elected officeholder shall accept any honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering, or any gifts, from any single source, which is in excess of one thousand dollars (\$1,000), in any calendar year, except reimbursement for actual travel expenses and reasonable subsistence in connection therewith.

(Emphasis added.)

Moreover, Sections 89504 and 89505 provide:

(a) No elected state officer shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

Section 89504. (Emphasis added.)

(a) No member of a state board or commission, and no designated employee of a state agency, shall accept gifts with a total value of more than two hundred fifty dollars (\$250) in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interest. This paragraph shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Section 89505. (Emphasis added.)

According to the new provisions, all gifts received by an official during the calendar year from a single source must be cumulated to determine if the source has reached or exceeded the gift limits of the Act. However, what constitutes a "single source" was not defined in the legislation.

At the Commission's June 1989 meeting, Regulation 18531.5 (copy enclosed) was adopted to clarify when cumulation was appropriate under the then-existing gift limit in Section 85400. Regulation 18531.5 provides in a pertinent part:

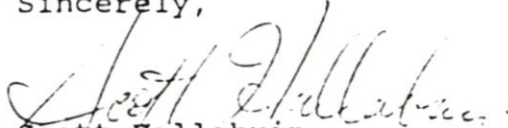
(c) If the same person or a majority of the same persons in fact directs and controls the decisions of two or more entities to make gifts or honoraria to an elected officer or elected officers, those affiliated entities shall be considered a single source for purposes of limitations in Government Code Section 85400.

(d) Business entities in a parent-subsiary relationship and business entities with the same controlling (more than 50-percent) owner shall be considered a single source for purposes of the limitations in Government Code Section 85400, unless the business entities act completely independently in their decisions to make gifts or honoraria to an elected officer or elected officers. For purposes of this section, a parent-subsiary relationship exists when one business entity owns more than 50 percent of another business entity.

You have asked whether the repeal of Section 85400 and the subsequent enactment of the new gift limits modifies the Commission's interpretation of "single source." Clearly, Regulation 18531.5, as it was adopted by the Commission, cannot survive the repeal of the statutory basis for the regulation. Therefore, we will be presenting the amendment or readoption of Regulation 18531.5 in the near future. As a result of this process, our advice on this subject may change.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

  
Scott Hallabrin  
Acting General Counsel

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