



California Fair Political Practices Commission

October 28, 1991

Miriam Jaffe
Administrative Assistant
Senator Alan Robbins
6150 Van Nuys Boulevard, Suite 400
Van Nuys, CA 91401-3376

Re: Your Request for Advice
Our File No. A-91-474

Dear Ms. Jaffe:

You have requested confirmation of advice provided to you concerning your responsibilities as administrative assistant to Senator Alan Robbins under the new gift and honoraria restrictions of the Political Reform Act (the "Act").¹ Please be aware that the issue raised in this letter presents a significant policy question which is being considered by the Commission in the form of proposed regulations. Thus, the advice in this letter is subject to modification in the future.

This letter confirms that your letter dated October 3, 1991, accurately summarizes the telephone advice I provided to you on October 1, 1991. You asked whether you were precluded from accepting a gift of travel and accommodations from the Rotary Foundation Group Study Exchange Program because of the new gift limits of the Act.

As we discussed in our telephone conversation, Section 89505(a) now provides, in pertinent part:

(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

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.

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.

You are a designated employee subject to the limit in Section 89505(a). However, where a designated employee receives a gift of travel, Section 89506 controls whether the gift is subject to the new gift limit. (Section 89505(b); Section 89504(b)(1).) Section 89506 provides:

(a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, is not prohibited or limited by this chapter if either of the following apply:

(1) The travel is in connection with a speech given by the elected state officer, member of a state board or commission, or designated employee of a state agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

Section 89506(a), emphasis added.

Payments by the Rotary Foundation

As I stated in our telephone conversation, it appears that the Rotary Foundation program described in your letter is reasonably related to an issue of state, national, or

international public policy pursuant to the exception in Section 89506. You stated that as part of the program you would travel to Argentina for five weeks to visit its legal, educational, commercial and historic institutions. You also stated that the program requires that you spend five days studying the legislature and government in the host country. Upon your return you will share your experiences with groups in your district.

Moreover, you stated that the Rotary Foundation is a charitable organization formed pursuant to Internal Revenue Code Section 501(c)(3). Consequently, the gift will be exempt from the limits of the Act.

Please note, payments for travel and accommodations are treated as a gift directly from any donor to the program who has earmarked its donation for you or knew or had reason to know at the time their donations were made that you will be the recipient of the gift of travel that the Rotary Foundation ultimately provides. Under such circumstances, if the donor is not a charitable or educational nonprofit organization, Section 89506 would not apply.

Finally, as I explained in our telephone conversation, the receipt of a gift of free travel and accommodations would be disclosable on your annual statement of economic interests. Also, please be aware that Section 87100, et seq., of the Act requires that public officials who have received gifts of \$250 or more from a single source must disqualify themselves from all governmental decisions that will foreseeably and materially affect the donor. If a decision should come before you in the future concerning the Rotary Foundation, you should contact us for advice about potential conflicts of interest.

Other Payments

In addition, any costs borne by anyone other than the Rotary Foundation² would need to be analyzed separately. For example, if you will reside with individuals in Argentina, Regulation 18727(a) would apply. Regulation 18727(a) provides:

For the purposes of Government Code Section 87207(a), the term "gift" does not include the value of gifts:

- (a) of hospitality involving food,

² If the costs are paid by Rotary Foundation branches in Argentina, the exception in 89506(a)(2) would still apply, so long as the Argentinian organization substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

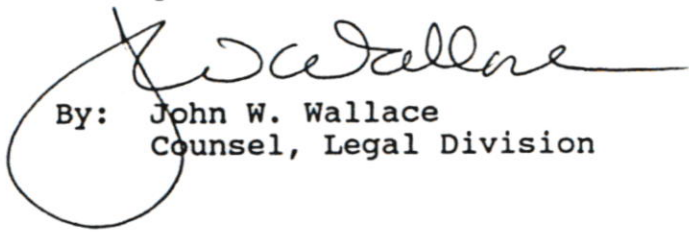
beverages or lodging provided by an individual
in his or her home to any public official
filing a statement of economic interests;

If this exception applies to some of the benefits you receive
in the host country, the fair market value of the benefits would
not be disclosable or subject to the gift limits or conflict of
interest provisions of the Act. (Van Winkle Advice Letter, No. I-
88-193.)

I trust this letter has addressed your concerns. Should you
have any further questions regarding this matter please feel free
to contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel



By: John W. Wallace
Counsel, Legal Division

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Enclosures