



California Fair Political Practices Commission

August 12, 1992

Honorable Richard G. Polanco
Assemblymember, 55th District
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Re: Your Request for Advice
Our File No. A-92-433

Dear Assemblymember Polanco:

You have requested confirmation of telephone advice provided to your office on behalf of yourself, and the other members of the Latino Legislative Caucus, concerning the gift and honoraria limits of the Political Reform Act (the "Act").¹

This letter confirms the advice I provided to you on July 31, 1992. As we discussed in our telephone conversation, the Act now provides a gift limit for legislators and designated employees of the Legislature.

Section 89504 and Section 89505(a) of the Act 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).

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.

(b) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

Section 89504.

(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.

(b) Subdivisions (b), (c), (d), and (e) of Section 89504 shall apply to the prohibitions in this section.

Section 89505(a).

In our telephone conversation of July 31, 1992, you asked whether a payment for travel and accommodations paid by the Mexican Government in connection with a meeting on the North American Free Trade Agreement could be accepted by members of the Latino Caucus.

I explained that Section 89504(b)(1) provides that where a legislator or designated employee of the Legislature receives a gift of travel, Section 89506 controls whether the gift is subject to the new gift limits. Section 89506 provides:²

(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,

² See also, Regulation 18950.1 (copy enclosed) which was adopted by the Commission on June 4, 1992, and is currently in the rule-making process.

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)(1)-(2).

The travel and accommodations in question are being paid for by a foreign government, the Government of Mexico. The travel and accommodations are being provided to the members of the Latino Caucus so that they may meet with the Mexican Government with respect to the North American Free Trade Agreement. Such a meeting appears reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy. Consequently, under your facts, the payments for travel and accommodations are not subject to the gift limits of the Act.

However, as I previously explained, absent an express exception to the definition of "gift" in Section 82028, the receipt of a gift of free travel and accommodations would be disclosable on your annual statement of economic interests.³ (Section 82028(b)(1).)

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

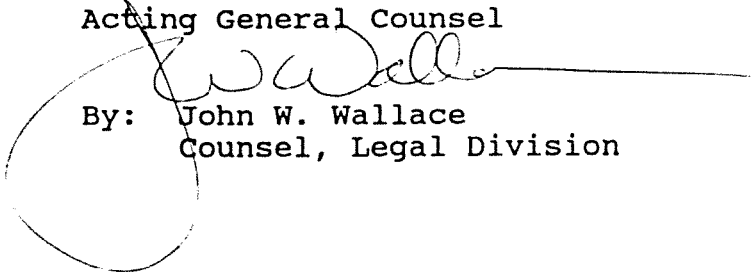
³ An advance or reimbursement for travel required to be reported as described above may be reported on the separate travel schedule of the statement of economic interests.

the donor.⁴ If a decision should come before you in the future concerning the Mexican Government, you should contact us for advice about potential conflicts of interest.

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) 322-5901.⁵

Sincerely,

Scott Hallabrin
Acting General Counsel



By: John W. Wallace
Counsel, Legal Division

SH:JWW:aa

Enclosures

⁴ See generally, Conroy Advice Letter, No. A-92-123 (copy enclosed).

⁵ Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.