



California Fair Political Practices Commission

January 6, 1993

Jerry W. Hill
Assistant Secretary of State
March Fong Eu
Secretary of State
1230 J Street
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-92-487

Dear Mr. Hill:

You have requested advice on behalf of Ms. Charlene Culbertson, a legal document examiner at the Secretary of State's Office, regarding the gift provisions of the Political Reform Act (the "Act").¹

QUESTION

Under the Act, may Ms. Culbertson, a designated employee, accept a payment for training and travel expenses from the State Bar of California ("State Bar") to attend work-related training classes?

CONCLUSION

Ms. Culbertson may accept payments for training and travel expenses from the State Bar as long as the State Bar is not a disclosable source of income under the conflict of interest code for Ms. Culbertson's position at the office of the Secretary of State.

FACTS

The California Trademark Office is adopting the federal standards used in reviewing and filing trademark documents.

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.

Ms. Charlene Culbertson, a legal document examiner (senior trademark examiner) has primary responsibility for the on-going process and success of this project.

Ms. Culbertson is scheduled to attend classes in 1993 conducted by the U.S. Patent and Trademark Office. The classes cover subjects such as ornamentation, configuration, trade names, disclaimers and mark usage. The anticipated cost of the trip is approximately \$2,000. The State Bar has offered to sponsor Ms. Culbertson's training and travel expenses.

ANALYSIS

Government Code Section 89505(a) provides that:

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.

(Emphasis added.)

The conflict of interest code for the Secretary of State's office provides that a legal document examiner is required to report "any investment in, income from, or business positions with any corporation incorporated or doing business in the State of California."

Pursuant to Section 6001 of the California Business and Professions Code, the State Bar is a public corporation. It is a public corporation created by the Legislature as the administrative arm of the California Supreme Court for the purpose of assisting in matters of admission and discipline of attorneys. Emslie v. State Bar of California (1974) 113 Cal. Rptr. 175, 520 P.2d 991, 11 C.3d 210.


During our telephone conversation, you informed me that the State Bar is not a corporation of record with the Secretary of State's office and not the type of corporation for which disclosure is required under the conflict of interest code for the Secretary of State's office. Therefore, Ms. Culbertson is not required to report the receipt of gifts from the State Bar on her statement of economic interests. Accordingly, a gift from the State Bar for her training and travel expenses is not reportable and is not subject to the gift limits.

Please note that Section 87100 et seq., of the Act requires that state public officials who have received income or gifts of \$250 or more from a single source must disqualify themselves from all governmental decisions that will foreseeably and materially affect the source. Thus, a decision concerning the State Bar may pose a conflict of interest for Ms. Culbertson who may be required to disqualify herself from participating in any decision having a material financial effect on the State Bar.

I trust this letter has addressed your concerns. Should you have any further questions regarding this matter, please contact me at (916) 322-5901.²

Sincerely,

Scott Hallabrin
Acting General Counsel

By: 
Jill Stecher
Counsel, Legal Division

SH:JS:dl

² 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.