



# California Fair Political Practices Commission

December 8, 1993

Matt Rexroad, Legislative Aide  
Office of Assemblymember  
William J. "Pete" Knight  
Assemblymember, 36th District  
State Capitol  
P.O. Box 942848  
Sacramento, CA 94248-0001

Re: Your Request for Advice  
Our File No. A-93-458

Dear Mr. Rexroad:

This is in response to your letter requesting advice regarding your responsibilities under the gift provisions of the Political Reform Act (the "Act").<sup>1</sup>

## QUESTION

What are your responsibilities as a designated employee of the Legislature with respect to the receipt of tickets to the 12th Annual Celebrity Luncheon which is being held as a fundraising event for the American Lung Association?

## CONCLUSION

Since the tickets are for a fundraising event held by the American Lung Association, an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, the tickets to the event have no value and would create no obligations with respect to the provisions of the Act.

## DISCUSSION

Pursuant to the Act, every public official must disclose all his or her economic interests that could foreseeably be affected by the exercise of the official's duties. (Sections 81002(c),

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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 Sections, 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

87200-87313.) A "public official" is defined broadly to include every natural person who is a member, officer, employee, or consultant of a state or local government agency. (Section 82048; Regulation 18700.) Section 87207 provides that a public official must disclose the name and address of each source of gifts of \$50 or more in value, the amount and the date on which the gifts were received and a general description of the business activity of the donor.

Moreover, Section 87100 prohibits any public official at any level of state or local government from making, participating in making or in any way attempting to use his or her official position to influence a governmental decision in which the official knows or has reason to know that he or she has a financial interest. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. (Section 87103(e).)

And finally, the Act now provides restrictions on the receipt of gifts and honoraria. Section 89505(a) and Regulation 18954 provide that no designated employee of a state agency may accept gifts in excess of \$270 from any single source in any calendar year.

Section 82028 provides in pertinent part:

"Gift" means...any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

Thus, generally, free admission to an event provided to an official is considered a gift, to the extent that consideration of equal or greater value is not provided.

However, Regulation 18946.4(b) provides:

A gift of a ticket or other admission privilege to a specific fundraising event shall be

valued as set forth below.

\* \* \*

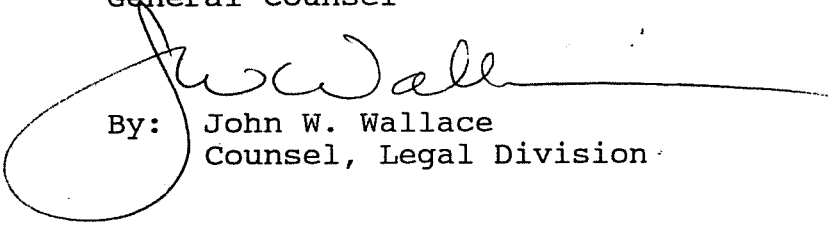
(b) Where the event is a fundraising event for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, the ticket or other admission privilege has no value.

You stated that the American Lung Association is an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. Consequently, a gift of tickets to the event has no value and would create no obligations with respect to the provisions of the Act.<sup>2</sup> (See, Najera Advice Letter, No. A-92-557.)

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.<sup>3</sup>

Sincerely,

Steven G. Churchwell  
General Counsel

  
By: John W. Wallace  
Counsel, Legal Division

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<sup>2</sup> Please note, however, that this conclusion applies to the cost of the tickets. If you receive additional free benefits that are not a part of the ticket price, these would be gifts for purpose of the Act.

<sup>3</sup> 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.