



California Fair Political Practices Commission

May 9, 1994

Robert E. Leidigh
Olson, Hagel, Fong, Leidigh,
Waters, and Fishburn
Capitol Bank Center
300 Capitol Mall, Suite 350
Sacramento, CA 95814

Re: Your Request for Informal Assistance
Our File No. I-94-129

Dear Mr. Leidigh:

This is in response to your letter requesting written confirmation regarding the continuing validity of the Commission's previous advice regarding gifts to a public agency under the provisions of the Political Reform Act (the "Act").¹ Since your request does not name a specific official on whose behalf you make your request, we are treating your request as one for informal assistance.²

At the Commission's April 7, 1994, meeting you asked whether the Commission's advice in the Bergeson Advice Letter, No. A-84-277, and the Hill Advice Letter, No. A-85-044, will continue to be valid upon the adoption of Regulation 18944.2. This letter confirms that Regulation 18944.2 does not affect that advice.

The Commission recognized in the Stone Opinion (1977) 3 FPPC Ops. 52, and in these letters, that payments on behalf of an elected officer may not be gifts or contributions to the officer, but may instead, under certain circumstances, be donations to the governmental entity to which the official belongs.

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

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

In the Bergeson and Hill advice letters, we advised that where a lease of office space to a state legislator identified the State of California or the legislator as the lessee, a fee reduction constitutes a gift to the State of California. The Stone Opinion, concerning gifts that personally benefit public officials, was not applied to those facts.

You have also asked in your letter whether free office space for use exclusively as a legislative district office would also constitute a gift to the State under the previously rendered advice. Finally, you ask whether the advice rendered by the Commission in the Raye Advice Letter, No. A-84-077, regarding the Governor's residence and its furnishings, is still valid.

In the Raye advice letter, supra, we advised that a donation of a residence and furnishings to be used by the Governor and future Governors constituted a gift of tangible property to the State. The letter stated that such gifts did not have to meet the Stone criteria. (See, also, Kaye Advice Letter, A-93-490.) Thus, Regulation 18944.2, which now has generally codified the Stone Opinion, also does not change our conclusion in the Raye advice letter.

However, please note that the Raye advice was intended to be limited to those specific facts. Relevant factors that we considered included the following: a gift to the State must benefit the State, the gift must not confer a significant or unusual benefit to any official; the donor must relinquish control of the gift to the State; and the gift must be formalized by a written agreement. Thus, to the extent that a gift is made to the State by a donation of office space, which does not render a significant or unusual benefit to an official, the donation of space would also constitute a gift to the State. However, again please note that a determination concerning specific gifts to public officials must be made on a case-by-case basis.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.³

Sincerely,

Steven G. Churchwell
General Counsel


By: Luisa Menchaca
Counsel, Legal Division

³ 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.