

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

March 21, 1996

Mr. Greg Schmidt
Executive Officer
Senate Rules Committee
California Legislature
State Capitol, Fourth Floor
Sacramento, California 95814

Re: Your Request for Advice
Our File No. A-96-074

Dear Mr. Schmidt:

This is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹

QUESTION

Will any of the entities and/or individuals described below have made a campaign contribution or gift to Senator Alquist? Will the Senate or the Senator have made a campaign contribution or gift to the other elected officials?

CONCLUSION

The public meeting to discuss legislative issues of importance to seniors co-sponsored by Senator Alquist will not result in any campaign contributions or gifts to Senator Alquist or the other elected officials.

FACTS

Senator Alquist has organized and will attend a public meeting with an Assemblymember and a city councilmember to discuss

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 18000-18995.

legislative issues of importance to seniors. There will be no campaigning and no endorsements at the legislative public meeting.

A number of panelists will make presentations during the public meeting. All of the panelists are understood to be acting in their official capacities on behalf of their organizations or groups. Two of these are administrators of federal government agencies and will receive compensation for their activities as well as travel reimbursement. Two of the panelists represent county agencies. It is understood that these agencies will not spend more than ten percent in a calendar month in compensation to the employees for their participation. Two of the panelists are unpaid volunteers for local community action groups. Panelists will not receive any reimbursement for their participation in this public event. Also, one of the two panelists is a president of the local chapter of an incorporated non-profit volunteer organization. This panelist also holds a statewide title with the group, but will receive no payment or reimbursement for participation in this public meeting.

The public meeting will be held at the City Hall. Meeting rooms within the City Hall building are made available to all groups, with no use fee. Light refreshments will be made available to the attendees and the participants. Coffee is served free of charge at all City Hall meetings, and pastries will be provided by Senator Alquist's office with legislative funds.

Co-sponsors of the public meeting will disseminate fliers announcing the event. The fliers would comply with Regulation 18901 if they were being distributed at public expense. This public meeting will be broadcast several times on a cable channel. Production costs will be paid for with legislative funds. The cable channel is a public access cable channel.

APPLICABLE LAW

Section 82015 defines "contribution" as any payment, forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. A payment is made for political purposes if it is: (1) for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or (2) received by or made at the behest of a candidate.² (Regulation 18215(a).)

² Regulation 18215(a) provides: "A payment is made for political purposes if it is: (1) for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or (2) received by or

Section 82007 defines "candidate," in pertinent part, as any individual who is listed on the ballot for elective office. An individual who becomes a candidate shall retain his or her status as a candidate until such time as the candidate or his committee has filed a statement of termination pursuant to Section 84214 and Regulation 18404. Thus, as an elected official, Senator Alquist is considered a candidate under Section 82007. Consequently, any payments Senator Alquist behests are presumed to be for political purposes and will be considered contributions absent an exception. (Danner Advice Letter, A-96-039.)³

Regulation 18215(b)(3) provides that a contribution includes "[a]ny goods or services received by or behested by a candidate or committee at no charge or at a discount from the fair market value, unless the discount is given in the regular course of business to members of the public."

Regulation 18215(c) further provides, in pertinent part, that the term contribution does not include:

* * *

(2) Volunteer personal services or payments made by a person for his or her own travel expenses, if such payments are made voluntarily without any understanding or agreement that he or she will be repaid.

* * *

(4) A payment made at the behest of a candidate, which is for a communication by the candidate or any other person, that meets all of the following:

(i) Does not contain express advocacy;

made at the behest of the following or any agent thereof: (A) a candidate; (B) a controlled committee; (C) an official committee of a political party, including a state central committee, county central committee, assembly district committee or any subcommittee of such committee; or (D) an organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union or corporation.

³ A candidate "behests" a contribution when the contribution is made "under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of."
(Regulation 18225.7(a).)

(ii) Does not make reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for office; and

(iii) Does not solicit contributions to the candidate or to third persons for use in support of the candidate or in opposition to the candidate's opponent.

Where a payment is not a contribution, it may in some circumstances be considered a gift. "Gift" is defined in Section 82028 as 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.

ANALYSIS

1. Other Elected Officials. According to your facts, Senator Alquist, an Assemblymember, and a city councilmember are co-sponsoring a public meeting to discuss legislative issues of importance to seniors. Any payments made at the behest of Senator Alquist or the other elected officials in connection with that event will be considered contributions to the officials on a pro rata basis, absent an exception. However, the public officials will not be considered to have made campaign contributions to each other as a result of co-sponsoring the public meeting.

2. Panelists. Two representatives of federal government agencies and two representatives of county government agencies will speak on a panel at the meeting. These individuals are acting in their official capacities and will be paid by their respective agencies. Section 85300 of the Act provides that "no public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office." Regulation 18420 states that campaign activities include, among others, arranging a campaign event, acting in the capacity of the campaign manager, soliciting, receiving or acknowledging contributions, or developing, writing, or distributing campaign literature. However, a government agency's services behested by a candidate and provided in connection with an event that is not a campaign activity, are not considered contributions. Therefore, the federal and county agency representatives' services requested by Senator Alquist in connection with the public meeting are not considered contributions.⁴

⁴ Moreover, these donated personal services do not constitute a gift to the Senator or the other elected officials. The panelists' presentations are not "payments received" by the elected officials under the definition of gift in Section 82028.

Two individuals representing local community action groups are also volunteering to appear on the panel and address the seniors. Under Regulation 18215(c)(2), such volunteer personal services would not be considered contributions.

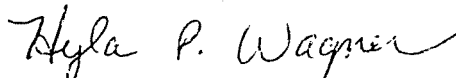
3. Location and Refreshments. The meeting will be held at the City Hall. Coffee and pastries will be made available to attendees. According to your facts, meeting rooms within the City Hall building are made available to all groups free of charge, and coffee is served free at all City Hall meetings. Therefore, the exception for discounts made available to the general public will apply and no contribution will result. (Regulation 18215(b)(3).) Senator Alquist will provide the pastries with legislative office funds. Because this payment does not constitute an expenditure made at the behest of a candidate or elected officer, or the candidate's own money or property used on behalf of his candidacy, no contribution to Senator Alquist will result. (Section 82015.)

4. Announcements and Cable Broadcast. Senator Alquist and other cosponsors of the public meeting will distribute fliers announcing the event. The meeting will also be broadcast several times on a public access cable channel. The fliers and cable broadcast of the meeting will not be considered a campaign contribution assuming they meet the requirements of Regulation 18215(c)(4). (Foster Advice Letter, No. I-95-039; and Schmidt Advice Letter, No. A-96-096.) Regulation 18215(c)(4) provides that communications are not contributions if they do not contain express advocacy, do not make reference to the candidate's candidacy for elective office or the candidate's opponent for elective office, and do not solicit contributions.

I trust this answers your question. If you have any further questions regarding this matter, please contact me at 916/322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Hyla P. Wagner
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