



RAVI MEHTA
CHAIRMAN

FAIR POLITICAL PRACTICES COMMISSION
January 2, 1997

Alan R. Burns
City Attorney
City of Fountain Valley
City Hall
10200 Slater Avenue
Fountain Valley, CA 92708

Re: Your Request for Advice
Our File No. A-96-324

Dear Mr. Burns:

You have requested advice regarding the gift provisions of the Political Reform Act (the "Act") on behalf of Councilmember Carrozzo.¹

QUESTION

Is the coupon/gift certificate won by Councilmember Carrozzo by random drawing at a ribbon-cutting grand opening attended by public officials and members of the public considered a disclosable gift or income to Mr. Carrozzo?

CONCLUSION

The coupon/gift certificate was received in a bona fide competition unrelated to Councilmember Carrozzo's official status. Accordingly, the exception to the Act's gift limit under Regulation 18946.5 applies to this coupon/gift certificate and the coupon/gift certificate should be reported as income on the councilmember's annual statement of economic interests.

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.

FACTS

Councilman Carrozzo attended a "ribbon-cutting" grand opening event for a local business. The event was open to the public. The Chamber of Commerce assisted in staging the event. Councilmember Carrozzo received an invitation and attended, along with other persons that were not city officials, including Chamber of Commerce members. Mr. Carrozzo is not a member of the Chamber of Commerce.

Tickets were given out at the door to all who attended for a random drawing. No consideration was paid for the ticket. Attendance was the prerequisite to obtaining a ticket. There were at least 35 people in attendance. Councilmember Carrozzo's ticket was drawn and he "won" a coupon/gift certificate that stated that it was good for up to \$250.00 off of jewelry purchased at a local jewelry store that was also a member of the Chamber. Councilmember Carrozzo used the discount to make a purchase.

ANALYSIS

Section 82028 defines a "gift" as follows:

...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.

Section 89503(a) provides gift limits with respect to elected officers:

No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

This gift limit is adjusted to reflect changes in the Consumer Price Index and is now \$280. Effective January 1, 1997, the gift limit will be \$290.

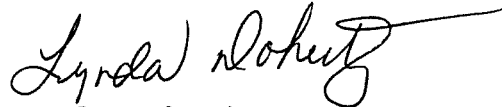
Regulation 18946.5 provides that a prize or an award received by an official must be reported as a gift unless the prize or award is received in a bona fide competition not related to the filer's official status. Under those circumstances, the prize or award shall be treated as income under the Act. Accordingly, awards qualifying under Regulation 18946.5 are not subject to the Act's restrictions on gifts to public officials.

We conclude Regulation 18946.5 applies to your facts. We base this conclusion on the fact that the event was open to the public, tickets were given to all who attended the event, and the actual coupon/gift certificate winner was selected by a random drawing. These facts would indicate that the coupon/certificate prize was received in a bona fide competition unrelated to Councilmember Carrozzo's status as a public official.² (Pritchard Advice Letter, No. A-95-094.)

I trust this answers your question.

Sincerely,

Steven G. Churchwell
General Counsel



By: Lynda Doherty
Political Reform Consultant
Legal Division

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² The Commission does not operate as a finder of fact. In re Oglesby (1975) 1 FPPC Ops. 71. Formal written advice provides immunity to the requestor only when all material facts have been truthfully disclosed by the requestor. Section 83114(b).