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RAVI MEHTA  
CHAIRMAN

## FAIR POLITICAL PRACTICES COMMISSION

September 11, 1997

Peter Larkin, President  
California Grocers Association  
906 G Street, Suite 700  
Sacramento, California 95814

**Re: Your Request for Advice  
Our File No. I-97-412**

Dear Mr. Larkin:

This letter is in response to your request for advice regarding the gift and travel provisions of the Political Reform Act (the "Act").<sup>1</sup> You are requesting advice on behalf of both the California Grocers Association, of which you are President, and the Food Marketing Institute ("FMI"). Since the FMI States Issues Forum for 1997 just ended and no California legislators attended, your questions regarding this year's conference are now moot. In addition, we do not advise on past conduct. Therefore, we are issuing informal assistance and general advice to assist you in planning future conferences.<sup>2</sup>

### QUESTION

May the Food Marketing Institute ("FMI") exceed the \$290 gift limit to pay the expenses for selected California legislators to attend the annual FMI State Issues Forum?

### CONCLUSION

The Food Marketing Institute may not exceed the \$290 gift limit to pay the expenses for selected California legislators to attend the annual FMI State Issues Forum unless an exception applies.

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<sup>1</sup> Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329, subd. (c)(3), copy enclosed.)

## FACTS

Every year the FMI sponsors an annual FMI State Issues Forum which is held in either California or another state. The FMI is a Washington, D.C., based trade association; it is not registered to lobby in California. Individual state associations, such as the California Grocers Association ("association"), provide the initial invitations to the legislators in their state. The California Grocers Association invites selected legislators to attend. FMI pays the expenses for legislators to attend the event, including airfare, meals, lodging and participation in social activities. The legislators are generally asked to speak and to participate in panel discussions or seminars. There is no financial connection between the FMI and the association.

## ANALYSIS

Pursuant to Section 89502, no elected state officer shall accept any honoraria.<sup>3</sup> In addition, no elected state officer shall accept any gifts from any single source in any calendar year with a total value of more than \$290. (Section 89503(a).) However, Section 89503 does not prohibit or limit payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506, which provides as follows:

“(a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elected state office or local elected office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a

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<sup>3</sup> Payments for transportation, lodging and subsistence that are exempted from the prohibition on honoraria under Section 89506 are not subject to the prohibitions on honoraria. (Regulation 18932.4.) Section 89506(b) provides that gifts of travel not described in 89506(a) are subject to the gift limits of Section 89503. (Parker Advice Letter, No. A-97-396, footnote 2, copy enclosed.)

nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.”

It is not possible to render legal advice without specific facts. Therefore, I have enclosed a fact sheet regarding “Gifts, Honoraria and Travel,” Regulations 18950.1 and 18950.3, which give some of the exceptions for gifts of travel, and the *Parker* Advice Letter, No. A-97-396, for general guidance.

Please be advised of Section 89521, regarding liability for unlawful gifts which states:

“Any person who makes or receives an honorarium, gift, or expenditure in violation of this chapter is liable in a civil action brought by the commission for an amount of up to three times the amount of the unlawful honorarium, gift, or expenditure.”

I hope this is of assistance to you. Please contact our agency next year if you have any questions regarding the FMI forum. If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel

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By: Jill Stecher  
Staff Counsel, Legal Division

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Enclosures