



## FAIR POLITICAL PRACTICES COMMISSION

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July 29, 1998

Kurt C. Swanson  
Director of Community and Cultural Services  
City of Cerritos  
18125 Bloomfield Avenue  
Post Office Box 3130  
Cerritos, California 90703-3130

**Re: Your Request for Advice  
Our File No. I-98-169**

Dear Mr. Swanson:

This letter is in response to your written request for advice and is also based upon the additional information provided during our phone conversation of July 24, 1998, regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup> During our conversation, you indicated that all of the scenarios set forth in your letter requesting advice, were actually hypothetical situations, and not actual situations facing you at this time. We do not advise on hypothetical situations. Therefore we are issuing informal assistance and general advice to assist you in the future.<sup>2</sup>

### QUESTIONS

1. May you accept an honorarium for participating in a seminar in Phoenix, Arizona that you have been invited to as a result of an article you wrote on horses that has been published in a magazine?
2. May you be reimbursed for your expenses at the seminar?
3. May you accept an honorarium for participating in a seminar held in California?

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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. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

May you be reimbursed for your expenses at a conference held in California?

May you be reimbursed by the organizers of the conference for your airline expenses, hotel bill, and incidentals for an airline disaster management speech at a national conference in Washington, D.C.?

### CONCLUSION

Generally, honoraria may not be accepted if the payer would have to be reported as a source of income or a gift on your statement of economic interests. Reimbursement for travel expenses and related lodging and subsistence is generally permitted so long as it is provided to you directly in connection with the event at which you are speaking or participating.

### FACTS

You are the Director of Community and Cultural Services for the City of Cerritos (the "city"). You wrote an article regarding horses that has been published in a magazine. As a result of that article, you have been invited to participate in a seminar in Phoenix, Arizona that would include reimbursement for travel and incidental expenses, plus a \$1,000 honorarium. Neither the article nor the conference has anything to do with your public employment, and you would go during your vacation time.

You have firsthand experience in airline disaster clean-up operation as a result of your activities with the City of Cerritos. You have been requested to speak at a national conference in Washington, D.C. on airline disaster management. The city has declined to pay for your expenses associated with speaking at this seminar. The organizers of the seminar have agreed to pay for your air transportation, hotel, and incidental expenses. There will be no honorarium for this speech.

You have been requested by the City of Portland, Oregon to speak on a topic relating to staff development. The City of Portland has offered to reimburse you for travel and incidentals as well as a \$500 honorarium. The City of Cerritos has declined to pay for your expenses should you choose to attend and participate in this program.

### ANALYSIS

Section 89502(c) provides that no designated employee of a state or local government agency shall accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. An honorarium means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501(a).)

An "article published" means a nonfictional written work, that is produced in connection with any activity other than the practice of a bona fide business, trade or profession, and that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

You have indicated that you are a designated employee of the City of Cerritos, therefore Section 89502 applies to you.

The prohibition on receiving honoraria includes several exceptions. (Section 89501; Regulations 18950.1 and 18950.3.) Section 89506 provides, among other things that payments, advances, or reimbursements, for travel reasonably related to a legislative or governmental purpose, or to an issue of state, nation, or international public policy, are not prohibited or limited if either the travel is in connection with a speech given or the travel is provided by a governmental agency or a bona fide nonprofit, 501(c)(3) organization, or an educational institution. (Section 89506(a).)

Section 89506(d)(3) provides another exception for payments reasonably connected with a "bona fide business, trade, or profession" which satisfy "the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the Internal Revenue Code, are not honoraria or gifts unless the sole or predominant activity of the business, trade, or profession is making speeches." (Regulation 18950.1(e).) Per our conversation of July 24, 1998, you do not have a bona fide business, trade or profession, thus, this exception does not apply to you.

Payments for travel which do not fit within the exceptions outlined in Section 89506 are considered gifts subject to the gift limits in Section 89503. (Section 89506(b).)

Section 89503(c) provides that no designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than \$290, if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interest. Certain general exceptions apply to the receipt of gifts. For example, free admission, and refreshments and similar non-cash nominal benefits provided to a filer during the entire event at which the filer gives a speech, participates in a panel or seminar, or provides a similar service, and actual intrastate transportation and any necessary lodging and subsistence provided directly in connection with the speech, panel, seminar or service, including but not limited to meals and beverages on the day of the activity, are not payments, and need not be reported by any filer. (Regulation 18950.3.)

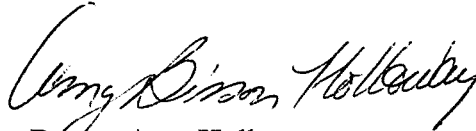
Except as provided for in Regulation 18950.3 travel, including interstate travel in connection with a speech given by the official, or travel provided for by a governmental entity or a nonprofit 501(c)(3) organization which is reasonably related to a legislative or governmental purpose, is not subject to the prohibitions or limitations on honoraria or gifts, but are reportable on the official's statement of economic interests. (Regulation 18950.1.)

It is not possible to render specific legal advice without more specific facts. Therefore I have enclosed a fact sheet regarding "Gifts, Honoraria and Travel" and the *Sonenshein* Advice Letter, No. A-98-152, for general guidance.

Please contact our Technical Assistance Division or write us again for advice, if needed, when you are faced with an actual situation, and we can consider and analyze all of the facts. If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel

A handwritten signature in cursive script that reads "Amy Simon Holloway".

By: Amy Holloway  
Staff Counsel, Legal Division

SGC:AH:tls  
enclosures