



FAIR POLITICAL PRACTICES COMMISSION

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February 5, 1999

Karen Mathews
Stanislaus County Clerk-Recorder
1021 I Street, Suite 101
Modesto, California 95354

**Re: Your Request for Advice
Our File No. A-99-004**

Dear Ms. Mathews:

This letter is in response to your request for advice regarding Section 89506 of the Political Reform Act (the "Act"),¹ and serves as a follow-up letter to your previous request for advice on the same subject matter, the *Mathews* Advice Letter, No. A-97-518 (copy enclosed).

QUESTION

Pursuant to Section 89506, do you have to report travel expenses provided to you in connection with a speech given outside of California on a national issue of public policy by the U.S. Department of Justice or the Anti-Defamation League?

CONCLUSION

Yes. Pursuant to Section 89506, the travel expenses must be reported on your statement of economic interests (Form 700) as gifts except for those payments that fall within Regulation 18950.3.

FACTS

You are the Stanislaus County Clerk-Recorder. On two occasions, you spoke to the U.S. Department of Justice regarding domestic terrorism outside of California. The Department of Justice paid for your travel costs in connection with those speeches. You also spoke to the Anti-

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

Defamation League, a nonprofit organization, outside of California, regarding the same subject. The Anti-Defamation League paid for your travel costs in connection with that speech.

ANALYSIS

As the county clerk-recorder, you are required to report gifts and income over certain amounts on your statement of economic interests (Form 700). You have been provided travel costs by the United States Government and by the Anti-Defamation League in connection with speeches you gave for them regarding domestic terrorism.

First, we must determine whether those payments were income or gifts. Section 82028 defines a "gift" as "any payment that confers a personal benefit, to the extent that consideration of equal or greater value is not received..." In limited situations, payments for travel may constitute "income" to an official if the official provides equal or greater consideration in return. However, we have concluded that merely giving a speech does not constitute providing equal or greater consideration for travel payments. (*Allen* Advice Letter, No. A-96-181.) Since you have not stated that you provided any other consideration besides giving a speech, we characterize the travel payments you have received as gifts. Next we must consider the gift limits and the honoraria ban. (Sections 89502 and 89503.)

As discussed in more detail in our previous advice to you, the *Mathews* Advice Letter, No. A-97-518, you may not receive honoraria. Section 89501(a) defines honoraria as 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. However, subsection (c) of Section 89501 states that "Section 89506 shall apply to all payments, advances, or reimbursements for travel and related lodging and subsistence."

You have written for advice regarding how to report travel payments received in connection with giving a speech. Therefore, we shall consult Section 89506. Section 89506 provides:

"(a) Payments, advances, reimbursements, for travel, including actual transportation and related lodging and subsistence that 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 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 education institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that 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....”

You have received travel payments in connection with speeches regarding an issue of national public policy from the Department of Justice and the Anti-Defamation League. Pursuant to Section 89506(a)(2), the payments from the Department of Justice are not limited or prohibited by Section 89502 (the prohibition on receiving honoraria) or Section 89503 (the gift limit.)² In addition, Section 89506(a)(2) provides that if the Anti-Defamation League is a 501(c)(3) nonprofit organization, the travel payments received from that organization are not prohibited or limited.

Even if the Anti-Defamation League is not a 501(c)(3) nonprofit organization, Section 89506(a)(1) provides that payments for actual transportation, as well as for lodging and subsistence expenses limited to the day immediately preceding, the day of, and the day immediately following the speech, are not limited or prohibited by the honoraria ban or the gift limit.

Nonetheless, you must report the travel payments received in connection with the speeches you gave as gifts on your statement of economic interests, except those payments that are exempted from any reporting obligations pursuant to Regulation 18950.3. Regulation 18950.3 provides:

“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

² For the year 1998, the gift limit was \$290. For the year 1999, the gift limit is \$300. (Regulation 18940.2.)

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.”

The exclusion for meals and beverages under this regulation is limited to those provided on the day of the speech. What constitutes “necessary accommodations” within this exception is generally limited to the day of the speech, but may include the day before or after, if necessary due to travel arrangements.” (*Allen Advice Letter, supra; Allen Advice Letter, No. I-94-270.*) Under this regulation, payments for meals and lodging received by you directly in connection with your speeches, are not subject to gift limits and are not reportable on your statement of economic interests. However, your transportation costs will still be reportable (since they were out of state), as well as any payments not directly in connection with any of the speeches.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Marte Castaños
Staff Counsel, Legal Division

SGC:MC:tls