



FAIR POLITICAL PRACTICES COMMISSION

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June 7, 1999

Michael A. Nemeroff
Sidley & Austin
1722 Eye Street, N.W.
Washington, D.C. 20006

**Re: Your Request for Advice
Our File No. A-99-148**

Dear Mr. Nemeroff:

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

QUESTION

May Andersen Consulting LLP donate a prize for a raffle to be held at a Chicano Latino Youth Leadership Project, Inc. ("CLYLP") fundraiser, which will be open both to public officials and to members of the public?

CONCLUSION

The raffle qualifies as a "bona fide competition" not related to the winner's status as a public official, so long as the raffle is in fact open to persons other than candidates and officials regulated by the Act. Under the circumstances you describe, the prize donation would not constitute a "gift" within the meaning of the Act.

FACTS

The CLYLP is a non-profit corporation. It holds an annual golf tournament for community leaders, government relations professionals, and public officials. The event is widely publicized and is open to all. Some state legislators, legislative staff, exempt appointees, and civil service state employees may attend. Public officials are likely to make up about 20 percent of the 150 tournament participants. Your client, Andersen Consulting, has made a contribution

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

in the amount of \$7,500 to the CLYLP. It is your understanding that CLYLP solicits contributions from various organizations to help fund the event, and Andersen Consulting will be recognized in the program literature as a sponsor of the event.

Andersen Consulting has also been discussing with CLYLP the possibility of donating a prize for a raffle which would be held at the event. You estimate that several hundred tickets will be distributed, and that government officials would make up a small percentage of the ticket holders. The prize would be an all expenses paid trip to the World Golf Championship - NEC Invitational at the Firestone Country Club in Akron, Ohio, with an estimated value of \$5,000.

ANALYSIS

An "all expenses paid trip" meets the Act's general definition of "gift." (Section 82028.) However, Regulation 18946.5 provides:

"A prize or an award received shall be reported as a gift unless the prize or award is received in a bona fide competition not related to the recipient's status as an official or candidate. A prize or award which is not reported as a gift shall be reported as income."

The Act limits the value of gifts that a public official may receive from any single source. (Section 89503.) Any person who makes a gift to an official in excess of the gift limit is liable under the Act. (Section 89521.) The present gift limit is \$300 (Regulation 18940.2), so the "gift" at issue may be donated to, and accepted by, an official only if it is a prize or award "received in a bona fide competition not related to the recipient's status as an official."²

Assuming that the raffle is conducted in such a manner that the winning ticket holder is determined by chance, the raffle is a "bona fide competition." So long as you are correct in your expectation that raffle tickets will be distributed *not only* to public officials, but to all persons attending the event, including persons not subject to the Act, this competition would not be related to the recipient's status as an official.³ It would thus be permissible for Anderson

² Lobbyists and lobbyist employers are governed by separate gift restrictions, including a gift limit of ten dollars. (Sections 86201, 86203.)

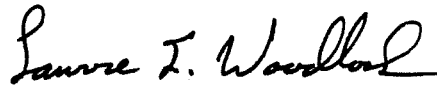
³ If the ticket holders were primarily officials or candidates regulated by the Act, as in a raffle held at a conference of public officials, the raffle would be related to official status, and therefore not subject to the exception of Regulation 18946.5. See, e.g. *Allen* Advice Letter, No. A-95-148. We realize that your client will not be conducting the raffle, and that you cannot be sure how or to whom the tickets will ultimately be distributed. Our advice is contingent on your assumption that tickets will *not* be limited to public officials. We have not prescribed a fixed percentage of ticket holders who may not be public officials, but to qualify for the exception of Regulation 18946.5, members of the public included in the raffle pool must be sufficiently numerous that a reasonable person would not infer that such persons were included only to evade the obvious intent of the rule.

Consulting to donate the prize, and for a public official to accept the prize, if he or she turns out to be the eventual winner.

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

Sincerely,

Steven G. Churchwell
General Counsel

A handwritten signature in black ink that reads "Lawrence T. Woodlock". The signature is written in a cursive style with a large initial 'L'.

By: Lawrence T. Woodlock
Staff Counsel, Legal Division

SGC:LTW:tls