



FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

December 28, 2000

Terence Lee Hancock, Esq.
625 Water Street
Santa Cruz, California 95060

Re: Your Request for Advice
Our File No. A-00-278

Dear Mr. Hancock:

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

QUESTION

If Ellen Pirie attends a reception honoring her as a newly elected member of the Board of Supervisors, what portion of donated restaurant services, food, and beverages will be attributed to her as "gifts" under the Act?

CONCLUSION

If Ms. Pirie attends the reception, her admission is considered a "gift" under the Act, the value of each admission being the total value of goods and services provided at the event, divided by the number of persons admitted.

FACTS

A local restaurant owner intends to donate the use of restaurant space and furnishings, as well as appetizers and beverages, for a reception honoring Ellen Pirie on January 5, 2001, after the ceremony in which she will be sworn in as a Santa Cruz County Supervisor. The value of goods and services to be provided by the restaurant

¹ Government Code sections 81000 – 91015. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

owner is estimated at more than \$1,000. Space considerations require that the event be limited to 100 persons, and you expect that most of those invited will be supporters of Ms. Pirie and interested community leaders.

ANALYSIS

Under the Act, a payment received by a candidate is classified as a "contribution" or a "gift." A "contribution" is a payment made for political purposes. (Section 82015.) The definition of "contribution" excludes payments received by a candidate for personal purposes. (Reg. 18215(c)(14).) "Gift" is defined, in pertinent part, as "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received..." (Section 82028(a).) Admission privileges to events not open to the general public, other than charitable events or political fundraisers, are generally viewed as "gifts" under the Act. (Regulations 18946.1, 18946.2; *Jacobs* Advice Letter, No. I-00-254.)

Regulation 18946.2 expressly addresses the question you pose, as follows:

"When an official or candidate is honored at a testimonial dinner or similar event, at which campaign fundraising for the official or candidate does not occur, the value received is the official's or candidate's pro rata share of the cost of the event, plus the value of any specific tangible gift that is presented to the official or candidate at the event."

The reception you have described to us is a "testimonial dinner or similar event" within the meaning of Regulation 18946.2 – on the assumption that the event will not include campaign fundraising.² Accordingly, the "gift" to Ms. Pirie is valued at the *pro rata* cost of her admission. For example, if the event is attended by 100 persons, the *pro rata* share of each person's admission would be one percent of the total value of goods and services provided at the event. It is of course the number of persons *actually in attendance* at the event, not the number invited, that determines the value of the gift received by each person. (*In re Gutierrez*, 3 FPPC Ops. 44 (1977).)

If Ms. Pirie were to be accompanied by a member of her immediate family, the *pro rata* value of the "gift" attributed to her might be the value of *two* admissions.³ Regulation 18944 (copy enclosed) explains the circumstances under which a gift to a member of the immediate family is regarded as a gift given to the official. Finally, if Ms. Pirie were presented with a tangible gift of some sort, other than the benefits of admission enjoyed by everyone present, the cost or value of that tangible gift would be added to the value of the gifts she received in the form of free admission(s).


² Valuation of admission privileges to nonprofit and political fundraisers is described at Regulation 18946.4.

³ "Immediate family" means an official's spouse and dependant children. (Section 82029.)

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

Sincerely,

Luisa Menchaca
Assistant General Counsel

A handwritten signature in cursive script that reads "Lawrence T. Woodlock".

By: Lawrence T. Woodlock
Senior Commission Counsel
Legal Division

:jg

I:\AdviceLtrs\00278.doc