



FAIR POLITICAL PRACTICES COMMISSION

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May 23, 2002

Kathleen Angel, Legislative Assistant
California Legislature
Dion Louise Aroner, Assemblywoman
Post Office Box 942849
Sacramento, CA 94249-0001

**Re: Your Request for Advice
Our File No. A-02-127**

Dear Ms. Angel:

This letter is in response to your request for advice on behalf of Assemblymember Dion Louise Aroner, regarding her duties under the Political Reform Act (the "Act").¹

QUESTIONS

1. May Assemblywoman Aroner accept the Good Housekeeping Award for Women in Government, consisting of \$2,500 and other monetary and nonmonetary benefits?
2. You also ask whether the gift can be turned over to charity.

CONCLUSIONS

1. Yes, the award qualifies as a bona fide competition unrelated to Assemblywoman Aroner's official status. Accordingly, the exception to the Act's gift limit under regulation 18946.5 applies to this award and she may accept it.
2. Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes, are not considered to have been accepted nor received.

FACTS

Assemblywoman Dion Louise Aroner was nominated and selected as one of the Center for American Women and Politics ("CAWP") awardees. CAWP works with Good Housekeeping and the Ford Foundation to administer the awards for women in government. Almost 300 nominees were considered for the award from a nationwide pool of women in governmental service. According to the web site information for the CAWP, any woman

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.



who works in government – from a member of the school board to a member of Congress – is eligible. A select panel of distinguished leaders judges the nominations. The assembly member was selected as a result of her work on childcare issues in the Legislature. The award has been given out each year for the past five years.

The total award involves a variety of benefits to the Assembly member.

- (1) A \$2,500 cash award;
- (2) Travel expenses for the Assembly member only, to and from Washington D.C., meals and a hotel room;
- (3) The official's out of pocket expenses (cab fare, etc.);
- (4) Four guest tickets to the luncheon.

ANALYSIS

Bona Fide Competition

Section 82028(a) defines a "gift" as "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status." Section 82028(b)(6) exempts from the definition of "gift" personalized plaques and trophies with a value of less than \$250.

The gift limit for state legislators is set forth in section 89503(a). Currently, no elected state officer may accept gifts from any single source in any calendar year with a value of more than \$320. Regulation 18946.5 contains an exception to the restrictions on gifts on gifts for a prize or award received by an official in a bona fide competition. The regulation states:

"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."
(Emphasis added.)

Regulation 18946.5 most frequently applies to allow public officials to keep prizes won in raffles, drawings, lotteries, or other contests open to the public or a wide field of contestants. The regulation in the past, however, has been applied to permit an elected official to keep a public service award and cash prize, where the competition was bona fide and the group of contestants was not exclusively made up of *California public officials*. For example, in the *Pritchard* Advice Letter, No. A-95-094, the regulation applied to permit Assemblymember Jackie Speier to receive KGO-TV's "Woman of the Year" award and a cash prize, despite the fact that Assemblymember Jackie Speier was a California elected official. The was because the *pool of contestants was not limited to public officials*, but was comprised of women from many fields, including medicine, sports, social work, and journalism. Moreover, an independent panel of judges picked the winner.

Similarly in *In re Solis* (2000) 14 FPPC Ops. 7, an assembly member was allowed to keep the John F. Kennedy Profile in Courage Award. That award was presented annually to a current or former governmental official. The assembly member was selected to be the recipient of the Profile in Courage Award by a nine-member panel of judges. Also relevant

to this conclusion was the fact that the donor was a nonprofit foundation and was not a potential source of conflict of interest for Senator Solis, nor was she in a position to grant any assistance or favors to the foundation.

These facts are substantially similar to both *Pritchard* and *In re Solis*. The competition for the Good Housekeeping Award for Women in Government is not limited to California public officials or candidates. The pool of contestants for the Good Housekeeping Award for Women in Government is nationwide. Almost 300 nominees were considered for the award. Any woman who works in government, from a member of a local school board to a member of Congress was eligible. Thus, we consider the award to be exempt from the gift limits of the Act as a bona fide competition. Further, since all of the benefits were awarded through the bona fide competition and are awarded to all the awardees, all are exempt from the gift limits.

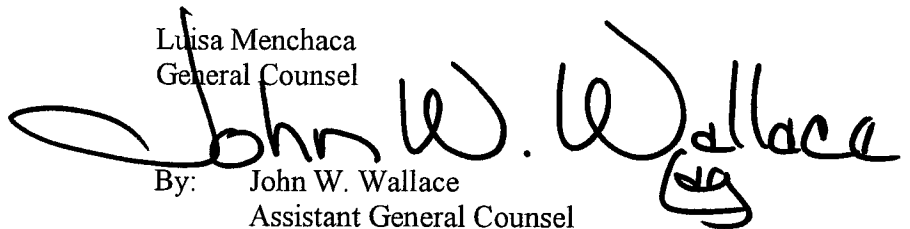
Charitable Contributions

Gifts may be donated to charity, and under certain circumstances, may result in no gift being received in the first instance. Regulation 18943(a)(2)(3) provides to that the official may, within 30 days of receipt, donate the gift, unused, to a charitable organization without claiming it as a charitable contribution for tax purposes, or may within 30 days of receipt, donate the gift, unused, to a state, local or federal governmental agency without claiming any deduction for tax purposes. Under such circumstances, the gift is deemed never to have been received or accepted.

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

Sincerely,

Luisa Menchaca
General Counsel

A handwritten signature in black ink that reads "John W. Wallace". The signature is written in a cursive style with a large, sweeping initial "J".

By: John W. Wallace
Assistant General Counsel
Legal Division

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