



FAIR POLITICAL PRACTICES COMMISSION

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April 20, 2007

Henry T. Perea, Council President
City of Fresno
Fresno City Hall
2600 Fresno Street, 2nd Floor
Fresno, California 93721

**RE: Your Request for Advice
Our File No. A-07-057**

Dear Mr. Perea:

This letter is in response to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented. The Fair Political Practices Commission ("Commission") does not act as a finder of fact when it renders assistance. (Section 83114; *In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

May you use campaign funds for a political and cultural exchange trip to Germany offered by the Institute for Cultural Diplomacy?

CONCLUSION

You may use campaign funds for expenses incurred on the trip if the expenses are *directly related* to a legislative or governmental purpose. Therefore campaign funds may be used to cover portions of the trip when legislative or governmental business is conducted, as discussed in the analysis. Any expenses incurred on the trip that are of a personal nature, however, must be paid for by personal funds, not campaign funds.

FACTS

You are requesting written advice regarding your ability to use campaign funds for a political and cultural exchange trip to Germany offered by the Institute for Cultural

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

Diplomacy. You have long believed that interacting with individuals from other countries, states, and cities can only lead to better understanding of our political and cultural beliefs.

You provide a description of the trip set forth below. The "Europe as a Global Player" study tour is a joint program directed at university or college employees, political officials and company representatives who want to get a hands-on look at Germany and Europe. The aim of the European Host Program is to build strong working relationships between academics and professionals from North America and Germany through international and intercultural exchange.

The Seminar Program addresses aspects of culture, economy, politics, and higher education. Seminar participants will attend lectures given by specialists from various universities and experts in the fields of education, politics and economy. The program takes US and Canadian participants through four different cities, each one of which will provide them with a better understanding of a particular aspect of German and European culture, politics, and life. The Program takes participants to visit the European Central bank in Frankfurt and the European Parliament in Strasbourg. The program visits Berlin to enable participants to take a closer look at the German perspective and its struggle for necessary change.

The European Host Program is coordinated jointly by the Ministry of Education, Women, Youth and Culture Rheinland-Palatinate, and the institute for cultural diplomacy. As Rheinland-Palatinate is also home to many multi-national companies, including pharmaceutical firms, chemical companies, and construction firms, the state's relationship to other nations is very important; hence, the desire to strengthen the transatlantic partnership through cultural and academic exchange through programs like the European Host Program.

The European Host Program represents the Institute for Cultural Diplomacy's continuing efforts to bring together leaders of civil society in a forum that promotes open dialogue and cultural exchange. Through internationally-focused programs like this, the Institute for Cultural Diplomacy hopes to build a sustainable transatlantic network and lay strong foundations for future business and academic cooperation between the United States, Canada and Germany. As financial and business relations between these three countries increase, it becomes more and more important to exchange cultural and social values.

ANALYSIS

The Political Reform Act's provisions concerning the permissible uses of campaign funds are found in Sections 89510-89522, copies enclosed. Under these provisions, campaign funds are regarded as totally separate and distinct from a candidate or officeholder's personal funds. (*Kaufman Advice Letter*, No. A-04-055.) The Act's campaign funds provisions are designed to ensure that campaign funds are used for

electioneering and officeholder purposes, and are not expended for the candidate or officeholder's personal purposes. (*Kaufman, supra.*)

The Act provides that all contributions deposited into a campaign account are "held in trust for expenses associated with the election of the candidate or for expenses associated with holding office." (Section 89510.) Generally speaking, an expenditure related to seeking or holding office is permissible under the Act if it is "reasonably related" to a political, legislative or governmental purpose. (Section 89512.) Certain uses of campaign funds, including travel, that are considered to confer a "substantial personal benefit"² on the candidate must meet a higher standard and be "directly related to a political, legislative, or governmental purpose." (Section 89512.)

With respect to the use of campaign funds for travel, Section 89513 states:

"(a)(1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are *directly related* to a political, legislative, or governmental purpose.

"(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law."
(Emphasis added.)

Internal Revenue Code Section 162(a)(2) sets forth general rules which permit the deduction of all ordinary and necessary expenses while traveling away from home in the pursuit of a trade or business.³ Under the Act, these rules have been applied to permit the use of campaign funds for only the portions of a trip when political, legislative, or governmental "business" is conducted. To the extent that any day is not a business day

² Substantial personal benefit is defined as "an expenditure of campaign funds which results in a direct personal benefit of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individual with authority to approve the expenditure of campaign funds held by a committee." (Section 89511(b)(3).)

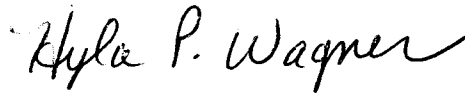
³ In pertinent part, Internal Revenue Code Section 162(a) states that:
" (a) In general. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including –
 (1) a reasonable allowance for salaries or other compensation for personal services actually rendered;
 (2) *traveling expenses (including amounts for meals and lodging other than amounts which are lavish or extravagant under the circumstance)* while away from home in the pursuit of a trade or business . . ."
(Emphasis added.)

(such as days on which there are no meetings or formal activities), campaign funds may not be used. If necessary, to prorate the cost, your trip to Germany may be broken into business days and nonbusiness days. When a weekend falls between business days, the weekend will also be counted as business time. (*Bass* Advice Letter, No. A-90-474.) Moreover, expenditures for solely personal purposes, such as some of the meals, entertainment, guided cultural and sight-seeing activities, may not be paid for with campaign funds, even if those occur on a business day. (*Hosterman* Advice Letter, No. A-05-044.) To the extent these personal expenses are part of a package price for the trip, they must be subtracted out.

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

Sincerely,

Scott Hallabrin
General Counsel



By: Hyla P. Wagner
Senior Counsel, Legal Division

Enclosures

HW:jgl

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