



FAIR POLITICAL PRACTICES COMMISSION

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March 5, 2009

Henry Mendoza, CPA
Mendoza Berger Company, L.L.P.
9838 Research Drive
Irvine, California 92618

Re: Your Request for Advice
Our File No. A-09-039

Dear Mr. Mendoza:

This letter responds to your request for advice regarding the gift limit provisions of the Political Reform Act (the "Act").¹ Our advice is based solely on the facts presented in your request; the Commission does not act as a finder of fact when it provides advice. (*In re Oglesby* (1975) 1 FPCC Ops. 71.) Also, please note that our advice is based solely on the provisions of the Act. We therefore offer no opinion on the application, if any, of other laws or your agency's own restrictions on the acceptance of gifts.

QUESTION

As a non-elected part-time member of a governing board of a public institution of higher education, are you prohibited by the Act from accepting gifts over \$420 in a calendar year, and are you required to report such gifts on your Statement of Economic Interests (Form 700)?

CONCLUSION

As a non-elected part-time member of a governing board of a public institution of higher education you are not prohibited by the Act from accepting gifts from a single source of more than \$420 in a calendar year. However, you are subject to the Act's reporting requirements and must report your economic interests including if applicable, gifts of \$50 or more received in a calendar year from a single source, as required by your agency's conflict-of-interest code and disclosure categories applicable to you.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

You are currently the managing partner of Mendoza Berger & Company, L.L.P., a public accounting firm. You have recently been appointed by the Governor to be a part time Trustee for the California State University. As such, you are a part time member of a governing board of a public institution of higher education, and you were not elected to this position. You are in the process of trying to complete and file your annual Statement of Economic Interests (Form 700) and would like guidance on how the Act's gift limits and reporting requirements apply to you. You would also like guidance on whether you are required to *report* gifts you have received on your Statement of Economic Interests if you are exempt from the Act's gift limit.

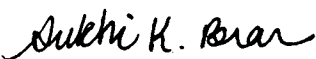
ANALYSIS

As trustee for the California State University you are a designated employee of a state government agency. Normally, designated employees are prohibited by the Act from accepting gifts from a single source in any calendar year with a total value of more than the Act's gift limit if the gift is from a source that is reportable under the agency's conflict-of-interest code. The Act's 2009-2010 gift limit is currently set at \$420. (See Regulation 18940.2) However, subdivision (d) of Section 89503 states that the Act's gift limit "... shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office." Therefore, you are not subject to the Act's gift limit, as you have stated that you are a non-elected part-time member of the governing board of a public institution of higher education. However, even though you are not subject to the Act's gift limit, you are required to report your economic interests on your Statement of Economic Interests (Form 700). As a designated employee in your agency's conflict-of-interest code, you are required to report gifts you have received totaling \$50 or more subject to your agency's conflict-of-interest code and the disclosure categories applicable to your designated position. (Section 87302(b).)

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

Sincerely,

Scott Hallabrin
General Counsel



By: Sukhi K. Brar
Counsel, Legal Division

SKB:jgl