



## FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

September 23, 2011

Thomas A. Willis  
Remcho, Johansen & Purcell  
201 Dolores Avenue  
San Leandro, California 94577

**RE: Your Request Informal Assistance  
Our File No. I-11-130**

Dear Mr. Willis:

This letter is in response to your request for informal assistance on behalf of the Lieutenant Governor Host Committee (the "Host Committee"), regarding the campaign and gift provisions of the Political Reform Act (the "Act").<sup>1</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c).)

### QUESTIONS

1. Would the Host Committee be engaging in a political purpose if it sponsors a panel discussion on California's economy and uses funds left over from hosting the Lieutenant Governor's inaugural events to pay for the event?
2. If the Lieutenant Governor speaks at the event, will admission to and refreshments served at the event be considered reportable gifts to him, and, if so, are they subject to the gift limits?
3. For other officials attending the event, will admission to and refreshments served at the event be considered reportable gifts and, if so, are they subject to the gift limits?

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<sup>1</sup> 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.

## CONCLUSIONS

1. Because the Lieutenant Governor will not exercise significant influence on the actions or decisions of the Host Committee, the Host Committee is not deemed to operate for political purposes.

2. Free admission for the Lieutenant Governor is not reportable nor is it subject to the limits under Section 82028(b)(1) because it is "informational material" as defined in Regulation 18942.1(a). However, under Section 89506(a), refreshments served at the event are reportable gifts but are not subject to limits.

3. The same rules applicable to the Lieutenant Governor apply to other officials attending the event. Free admission is not reportable nor subject to the Act's gift limits. Refreshments are reportable gifts but not subject to limits.

## FACTS

The Host Committee was established to organize and defray the costs of inaugural and transition activities for the Lieutenant Governor in 2010-2011. You state that the Host Committee was established in compliance with the Commission's publication "Restrictions on Funding for Candidates' Inauguration Events" and the Commission's Advice Letters, No. A-05-206 (*Sutton*) and No. A-94-376 (*Bell*) related to inaugural committees. The Host Committee is governed by a Board, of which Lieutenant Governor Newsom is not a member. The Host Committee has not raised funds for or made contributions or expenditures in support of or against any candidate or ballot measure. The Host Committee is a nonprofit organization that is seeking tax-exempt status under Section 501(c)(4) of the Internal Revenue Code. The Host Committee wishes to spend funds, approximately \$15,000, remaining from inauguration events to sponsor a panel discussion on California's economy, including ideas for stimulating the economy and creating jobs. The event will consist of a panel discussion or discussions focused on specific areas related to the economy and job creation, followed by a reception. There will be no fundraising to pay for the event.

Lieutenant Governor Newsom will be one of the officials who will participate and will likely be a member of a panel or otherwise speak. He will not, however, be listed as the sponsor of the event or in any way be featured in the invitation. At most, he will be identified along with other speakers or participants. Neither the Lieutenant Governor, nor any other speaker, will engage in any electioneering at the event.

In addition to speaking at the event, Lieutenant Governor Newsom will be involved in the general planning of the event, such as the selection of a date and venue. Although he may make some suggestions as to who will be invited to speak or attend, the final selections will be made by the Board. In our recent conversation, you indicated that the broad subject matter of the event may be narrowed once the panelists have been selected. Although Lieutenant Governor Newsom may

be consulted in this matter, the decision will be driven by the speakers themselves with ultimate authority for selecting the topic resting with the Board.

Presenters and guests will not be required to pay to attend the event. They will be responsible for their own travel costs. All of the costs associated with the event will be paid by the Host Committee. To the extent any public official receives reportable gifts in connection with attending the conference (such as meals, mementos, or other tangible items), the public official will be informed that the "Lieutenant Governor Host Committee" is the source of the gifts.

### ANALYSIS

*Question 1: Would the Host Committee be engaging in a political purpose if it sponsors a panel discussion on California's economy and uses funds left over from hosting the Lieutenant Governor's inaugural events to pay for the event?*

Regulation 18215 defines the term "political purpose" as applied to payments that are considered to be "contributions."<sup>2</sup> The regulation provides that a payment is made for political purposes, in part, if it is "for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate,"<sup>3</sup> or is made by a candidate or a candidate 'controlled committee.'"

"Controlled committee" is defined in Section 82016 as "a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee."

Under Regulation 18217, a nonprofit organization is deemed to be a candidate controlled committee if the organization meets a two-pronged test: (1) the candidate exercises significant influence on the actions or decisions of the committee; and (2) the organization qualifies as a committee under Section 82013(a) and is operated for political purposes. (Regulation 18217(a).)

Turning to the first prong of Regulation 18217, will Lieutenant Governor Newsom exercise significant influence on the actions or decisions of the Host Committee? You state that he will be a member of a panel or otherwise speak at the event that will be held by the Host Committee. He will not be listed as the sponsor of the event or in any way be featured in the invitation. At most, he will be identified along with other speakers or participants. Although he

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<sup>2</sup> Section 82015 defines "contribution" as a "payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes."

<sup>3</sup> Under Section 82007, an officeholder is a "candidate."

may make suggestions as to who should be invited to speak or attend, the final selections will be made by the Board. In addition to speaking at the event, Lieutenant Governor Newsom will be involved in the general planning of the event, such as the selection of a date and venue. The broad subject matter of the event may be narrowed once the panelists have been selected, but the Lieutenant Governor will not be participating in the final decision.

Under these facts, Lieutenant Governor Newsom will not be exercising significant influence on the actions or decisions of the Committee. Accordingly, the Committee is not a “controlled committee” under the Act and is not deemed to operate for political purposes. Because the first prong of the three prong test is not met, the Host Committee is not a candidate controlled committee and is, therefore, not prohibited from using the leftover funds to host the event.

*Question 2: If the Lieutenant Governor speaks at the event, will admission to and refreshments served at the event be considered gifts to the Lieutenant Governor? If the answer is yes, are the gifts reportable and are they subject to the Act’s gift limits?*

Free admission. The Act excludes from its definition of “gift” items classified as “informational material,” a term that includes “any item which serves primarily to convey information and which is provided for the purpose of assisting the recipient in the performance of his or her official duties or of the elective office he or she seeks.” (Section 82028(b)(1); Regulation 18942.1.) “Informational material” includes “free or discounted admission to informational conferences or seminars.” (Regulation 18942.1(a).) Accordingly, free admission to the event is not reportable, nor is it subject to limits.

Refreshments. Section 89506 provides that payments, advances and reimbursements for travel, including transportation and related lodging and subsistence, are not prohibited or subject to limits if the travel is (1) reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, and (2) made in connection with a speech given by, among others, elected state officers. However, these gifts must be reported.

First, payments relating to a speech regarding the California economy are reasonably related to a legislative or governmental purpose or an issue of state public policy. Second, the refreshments to be provided by the Host Committee are provided in connection with the Lieutenant Governor’s speech. Under these circumstances, the Lieutenant Governor’s acceptance of refreshments served at the upcoming event is reportable but is not prohibited or limited by the Act’s gift provisions.

*Question 3: Will admission to and refreshments served at the event be considered gifts to other officials attending the event? If the answer is yes, are the gifts reportable and are they subject to the Act’s gift limits?*

The same rules that apply to the Lieutenant Governor also apply to the other officials attending the event. Accordingly, free admission to the event is not reportable, nor is it subject

to limits under Section 82028 and Regulation 18942.1. Under Section 89506, refreshments served at the event are reportable gifts, but are not subject to limits.

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

Sincerely,

Zackery P. Morazzini  
General Counsel

A handwritten signature in black ink, appearing to read "Valentina Joyce", with a long horizontal flourish extending to the right.

By: Valentina Joyce  
Counsel, Legal Division

VJ:jgl