



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

April 4, 2012

Ms. Dorothy Birsic
P.O. Box 1432
Fullerton, CA 92836

Re: Your Request for Advice
Our File No. A-12-047

Dear Ms. Birsic:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹

QUESTION

What must you report on your statement of economic interests if you receive tickets or other items in connection with your website that lists musical events in Orange County?

CONCLUSION

As a candidate for the Fullerton City Council, you must report on your statement of economic interests gifts from a single source totaling \$50 or more in a calendar year. In addition, you may not accept gifts totaling more than \$420 in a calendar year from a single source.

FACTS

You have filed papers for and been qualified as a candidate for a City Council seat in the city of Fullerton to be voted on in a special municipal election on June 4, 2012. You are writing to seek some clarification from the Commission about gift reporting requirements as they relate to this campaign.

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.

For nearly ten years you have been the creator, designer and sole operator of a Southern California website called www.dorothyswebsite.org. The site lists free concerts and music-related events in Orange County and parts of Los Angeles County and the Inland Empire. In addition to the listings you maintain a separate page on the website in the summer (and a Twitter page in the Fall/Winter/Spring) which lists other free products, events and services, most of which are available to the general public. You do not charge anyone to visit the site, you do not accept advertising, and you do not pay for any items listed in any format in conjunction with the site. The site is not a business and has been operated more as a hobby and teaching tool than anything else.

From time to time you may receive an item in association with listing it on the site, or you may receive an invitation to attend an event associated with one of the concerts you list on the site. It is something you have been doing for nearly a decade. In addition, since this summer is a milestone for you – the site's 10th Anniversary summer – you have been considering seeking a sponsor or sponsors, a transaction that would likely involve receiving some products or services for free.

As a candidate, you are not sure how you should look at this in terms of reporting requirements. You ask for clarification as to what you may continue to accept, and what you must report or declare as a gift, in conjunction with the daily operation of the website.

ANALYSIS

Under the Act a local elected officer or a candidate for local elective office may not accept gifts from any single source totaling more than \$420 in a calendar year.² (Section 89503.) As a candidate for city council, you are required to file a statement of economic interests on Form 700. (Section 87201.) On this form you disclose gifts aggregating \$50 or more from the same source received during the past 12 months. (Section 87201.)

Elected officials specified in Section 87200, including members of city councils of cities, are subject to the Act's requirements on filing periodic statements of economic interests. They must file statements of economic interest when they file a declaration of candidacy to run for office, upon assuming office, annually thereafter while holding office, and upon leaving office. The requirement for filing a statement of economic interest with a declaration of candidacy in Section 87201 is as follows:

² For purposes of the \$420 gift limit, Section 89503(b)(1) provides that "[a] person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to state or local office, a declaration of intent, or a declaration of candidacy, whichever comes first.

“Every candidate³ for an office specified in section 87200 other than a justice of an appellate court or the Supreme Court shall file no later than the final filing date of a declaration of candidacy, a statement disclosing his or her investments, his or her interests in real property, and any income [including gifts] received during the immediately preceding 12 months.”

A “gift” is any payment or other benefit provided to you that confers a personal benefit for which you did not provide payment or services of equal or greater value. A gift 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. (Section 82028.) We have enclosed an FPPC fact sheet on gifts for local officials and candidates for local elective offices for your reference. Exceptions exist to the definition of gift for gifts from family members, home hospitality, and informational material, among others, and are contained in the Act and Regulation 18942 and summarized in the enclosed fact sheet.

Regulation 18946 contains valuation guidelines for gifts:

“(a) General Gifts. Except as specified in subdivisions (b) and (c), a gift is valued at fair market value as of the date of receipt. Sections 18946.1 through 18946.5 provide for the valuation of specific types of gifts in the following situations:

Ticketed Events – See Regulation 18946.1

Invitation-Only Events – See Regulation 18946.2

Wedding Gifts – See Regulation 18946.3

Tickets to Nonprofit and Political Fundraisers – See Regulation 18946.4.

Air Transportation – See Regulation 18946.5

(b) Unique Gifts. Whenever the fair market value of a gift cannot be determined because the gift is unique or unusual, the official must make a reasonable approximation. In making such an approximation, the official must take into account the price of similar items. If similar items are not available as a guide, a good faith estimate shall be utilized.

(c) Except as specified in Regulation 18946.1(a) and (b), the value of a gift is its full value even if unused, partially used, discarded, or transferred to another person. . . .”

The value of a ticket you receive is the face value of the ticket. (Regulation 18946.1.) However, a ticket has no reportable value unless it is ultimately used or transferred to another person. (Regulation 18946.1.) As to invitation-only events, the value of the benefit received

³ Section 82007 defines a “candidate” as: “. . . an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office . . . An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214. . . .”

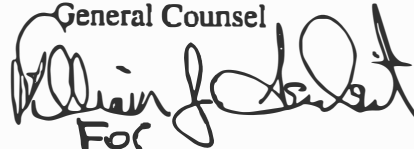
by an official and one guest who attend an invitation-only event, is the official's and the guest's pro-rata share of the cost of the food, catering services, entertainment, and any item provided to the official and guest that is available to all guests attending the event. (Regulation 18946.2.)

Therefore, if you receive an item, including tickets or an invitation to an event in connection with your website, you should report the item on your initial statement of economic interests if the value of the item is more than \$50 from the same person or entity in the past 12 months. You report any such gifts on Schedule D of your Form 700. As a candidate for city council, you file your statement of economic interest with your city clerk no later than the final filing date for the declaration of candidacy or nomination documents. You have not mentioned receiving large items, but note that as a candidate, the Act's gift restrictions prohibit you from receiving a gift from any single source totaling more than \$420 in a calendar year.

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

Sincerely,

Zackery P. Morazzini
General Counsel



By: For
Hyla P. Wagner
Senior Counsel, Legal Division

HPW:jgl

Enclosure