



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

March 13, 2019

Angie Palmerin, Esq.
3706 Abaco Road
West Sacramento, CA 95691

Re: Your Request for Advice
Our File No. A-19-033

Dear Ms. Palmerin:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (“Act”).¹ Please note that we are only providing advice under the gift provisions of the Act and not under other prohibitions, such as common law conflict of interest or Section 1090.

Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71); any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

As a public official subject to the Act’s gift provisions, is Western Association of Food Chains’ (“W AFC”) waiver of your husband’s registration fee considered a gift to you?

CONCLUSION

No. Under the facts presented, you will not receive a gift as defined by Section 82028(a).

FACTS AS PRESENTED BY REQUESTER

You are a staff attorney with the Department of Forestry and Fire Protection (“Cal Fire”) holding a position designated in the agency’s conflict-of-interest code. Your duties consist mainly of providing legal advice as it relates to Cal Fire’s recovery program, which seeks to recover suppression costs incurred during fire suppression activities.

Your husband has been in-house counsel for Raley’s Supermarkets since January 2014. Raley’s is a privately-held supermarket chain that operates stores throughout Northern California

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.

and Nevada. Although Cal Fire may purchase goods from Raley's during fire incidents, you have never been involved in making decisions or providing advice regarding grocery retailers.

Your husband is attending a semester long Food Industry Management ("FIM") program at the University of Southern California ("USC"). Your husband's FIM class is invited to speak at and/or attend the Western Association of Food Chains ("W AFC") annual convention. The W AFC is an organization focused on providing education opportunities for individuals working in the food industry. According to its website, the W AFC is a non-profit organization under Internal Revenue Code Section 501(c)(3). The W AFC helped establish USC's FIM program. As part of the relationship between USC and W AFC, the W AFC waives the registration fee associated with the convention for students of the FIM program, but the students' employers, or the students themselves, are responsible for paying for hotel accommodations. The W AFC annual conference will be in Palm Desert and take place from May 4-8, 2019. Included with the convention are a number of meals, presentations, and educational material.

The cost of the convention and the hotel prior to W AFC waiving the students' fee is \$2,840. After W AFC waives the registration fee, the remaining amount owed for hotel accommodations is \$1,350. The registration fee for the conference is \$1,490. Your husband's employer, Raley's, is paying for the hotel accommodations. You will neither attend the convention nor use the hotel accommodations.

To the best of your knowledge, you have not been involved in making decisions or providing advice involving the W AFC. As far as you know, the W AFC does not know who you are nor do they know that you are a public official. The benefit provided to your husband was not influenced by your position as a public official. The W AFC waives the registration fee of all students that attend the FIM program.

ANALYSIS

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. As a general rule, when a gift is received by the spouse of a public official and the official enjoys a direct benefit from the gift, the official is required to disclose the gift on his or her statement of economic interests.

To reduce improper influence on public officials, one of the ways the Act regulates the receipt of gifts by public officials regards gifts to an official through a family member:

Regulation 18943(c) provides that gifts to the benefit of your spouse will be considered gifts to you if either of the following applies:

"(1) There is no established working, social, or similar relationship between the donor and the family member that would suggest an association between the donor and the family member suitable or appropriate for making the type of payment provided to the family member."

"(2) There is evidence to suggest the donor had a purpose to influence the official."

Your husband has a well-established working relationship with Raley's Supermarkets. Specifically, he has an almost five-year working relationship with the food retailer and was selected by Raley's from a pool of other management level employee applicants to attend the management training program. As such, he has an established "independent relationship" that lead to him receiving the offer to participate in the FIM program. Your husband's FIM class was invited to speak at and/or attend WAFC's annual convention. As such, WAFC's waiver off its registration fee solely arises from your husband's independent relationship with Raley's and his participation in the FIM program. Accordingly, the Act's gift prohibitions are inapplicable to the indirect benefits you may receive from the waiver.

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

Sincerely,

Dave Bainbridge
General Counsel



By: Ryan O'Connor
Counsel, Legal Division

RPOC:jgl