

Memorandum

To : Honorable Brad Sherman
Chairman

Date: July 8, 1993

From : E. L. Sorensen, Jr.
Chief Counsel

Subject: **Contribution Disclosure Opinion 93-9**

A campaign contribution made to a Board Member's campaign account and the value of a gift that is made personally to a Board Member are not aggregated for purposes of section 15626.

Question Presented:

Would a campaign contribution to a Board Member and the value of a gift to a Board Member from the same source be aggregated to determine whether the \$250 disclosure and disqualification level of Government Code section 15626 has been reached?

Answer:

A campaign contribution made to a Board Member's campaign account and the value of a gift that is made personally to a Board Member from the same source would not be aggregated for purposes of determining whether the \$250 disclosure and disqualification level of section 15626 has been reached.

Analysis:

The Kopp Act (Government Code section 15626) prohibits a Board Member who has received a contribution or contributions in an aggregate amount of \$250 or more from a party, participant or agents within the 12 months preceding an adjudicatory proceeding pending before the Board from making, participating in making, or attempting to influence a decision in the proceeding.

For purposes of the Kopp Act, "contribution" is defined by Government Code section 82015, a part of the Political Reform Act (Government Code sections 81000-91015), and its relevant regulations. (Section 15626(h).) 2 Cal. Code of Regulations, section 18215, which interprets section 82015, says in pertinent part that:

A contribution is any monetary or nonmonetary payment made for political purposes for which full and adequate consideration is not made to the donor. A payment is made for political purposes if it is:

...

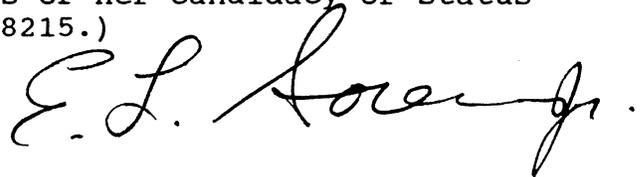
(2) Received by or made at the behest of:

(A) A candidate, unless it is clear from surrounding circumstances that the payment was received or made at his or her behest for personal purposes unrelated to his or her candidacy or status as an officeholder.

Except as otherwise provided, the Political Reform Act defines a gift as any payment to the extent that consideration of equal or greater value is not received. (Section 82028.) Campaign contributions are specifically exempted from the definition of gift. (Section 82028(b)(4).) Thus, for example, when Government Code section 87100 requires disqualification of a public official who has a financial interest in a governmental decision, campaign contributions are not considered gifts for purposes of determining whether the public official has a financial interest.

Section 15626 requires disclosure and disqualification based on the level of campaign contributions received; no mention is made of gifts. Section 15626 does not require a Board Member to aggregate the value of gifts with that of contributions when determining whether the \$250 disclosure and disqualification level of section 15626 has been reached. This is consistent with Government Code section 84308 which also excludes gifts when determining whether the level of contributions requiring disclosure and disqualification has been reached.

We note that a Board Member, when making a determination regarding whether what has been received is a gift or a contribution, should remember that a monetary or nonmonetary payment made to the Member will be considered a contribution unless it is clear from the surrounding circumstances that the payment was received or made at the Member's behest for personal purposes unrelated to his or her candidacy or status as an officeholder. (Regulation 18215.)



cc: Honorable Ernest J. Dronenburg, Jr.
Honorable Matthew K. Fong
Honorable Gray Davis
Member First District
Mr. Burton W. Oliver
Contribution Disclosure Binder Distribution List