

Memorandum

To : Honorable Dean F. Andal

Date: June 7, 1996

From : Mary C. Armstrong
Acting Chief Counsel

Subject: **CONTRIBUTION DISCLOSURE OPINION 96-1**

A campaign contribution made to a Board Member's campaign bank account and the value of a gift that is made personally to the Board Member are not aggregated for purposes of section 15626. Moreover, the Political Reform Act will not prohibit the gift so long as the Board Member does not receive \$280 or more from the company in the calendar year. The gift will need to be disclosed on the Board Member's annual statement of economic interests.

Questions Presented:

1. A Board Member has received a \$249 campaign contribution from a company that appears before the Board. The same company has offered the Board Member, as a gift, theme park tickets, valued at \$181.65. May the Board Member accept the gift tickets without being disqualified under Government Code section 15626?

2. May the Board Member accept the gift tickets under the provisions of the Political Reform Act which limit the receipt of gifts by Elected State Officers, including Members of the Board?

Answer:

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

2. Government Code section 89503 of the Political Reform Act prohibits elected state officers, including Members of the Board, from accepting gifts from any single source in any calendar year with a total value of more than \$280. Assuming the Board Member has not received any other gifts from the company in the calendar year, the Board Member may accept the \$181.65 gift from the company. However, the gift will be disclosable on the Board Member's statement of economic interest.

Analysis:

1. The Kopp Act

The Kopp Act (Government Code section 15626) prohibits Board Members from making, participating in making, or in any way attempting to use the Member's official position to influence, a decision in an adjudicatory proceeding if the Member knows or has reason to know that the Member has received a *contribution or contributions* in an aggregate amount of \$250 or more (within the preceding 12 months) from a party, participant or agents thereof. (Government Code section 15626(c).)

The Kopp Act defines "contribution" as the term is defined in Government Code section 82015 of the Political Reform Act. (Government Code section 15626(h)(1).) The Political Reform Act defines "contribution" as payments received by candidates and elected officers for political purposes, unless (1) full and adequate consideration is received or (2) it is clear from the surrounding circumstances that it is not made for political purposes, but was received for personal purposes unrelated to his or her candidacy or status as an office holder. (See, 2 Cal. Code of Regulations 18215(c)(14).) The Political Reform Act's definition of "gift" in Government Code section 82028(b)(4) specifically excludes "contributions."

According to your facts, the company in question has made a campaign contribution to the Board Member of \$249. The company now wishes to make a gift of theme park tickets valued at \$181.65 to the Board Member, for the Board Member's personal use. Since the gift of the tickets would be for personal purposes, it would not be a "contribution" and would not need to be considered for the prohibition in Government Code section 15626.¹

2. The Political Reform Act

You have also asked about the gift limit of the Political Reform Act. Government Code section 89503(a) provides that no elected state officer may accept gifts from any

¹ Of course this assumes that the tickets are being provided to the Board Member for his or her personal use. Where the tickets are provided to the Board Member in connection with a campaign event, such as where the tickets will be used at a fund-raiser, they will be considered contributions that would need to be considered in applying the prohibition in Government Code section 15626.

single source in any calendar year with a total value of more than \$280.² Pursuant to Government Code sections 82021 and 82024, Members of the Board are "elected state officers."

Thus, a gift of \$181.65 is within the gift limit of the Political Reform Act. Please be aware, however, that the gift limit is based on the aggregate value of gifts from that source during the calendar year. Thus, if the Board Member has already received gifts that when aggregated with the \$181.65 will exceed \$280, the Board Member may not accept the tickets. Additionally, any future gifts this calendar year from that same source must be aggregated with the \$181.65 for gift limit purposes.

Finally, please note that any gift or gifts valued at \$50 or more from a single source must be disclosed on the Board Member's annual statement of economic interest. (Government Code sections 87200 and 87207(a)(1).)

If you have further questions concerning this matter, please contact Tax Counsel John Wallace at 323-2481.

JWW:pf



cc: Honorable Johan Klehs
Honorable Ernest J. Dronenburg, Jr.
Honorable Brad Sherman
Honorable Kathleen Connell
Contribution Disclosure Binder Distribution List

k:\special\contdisc\opinions\odo96-1.doc

² The gift limit is adjusted January 1 of each odd-numbered year to reflect changes in the consumer price index. (Government Code section 89503(f).) The current threshold is \$280. (2 Cal. Code of Regs. 18954(c).)