

MEMORANDUM OF LAW

DATE: April 20, 1989

TO: Wally Schlotter, Vice President and Director,  
Motion Picture Bureau  
FROM: City Attorney  
SUBJECT: Potential Gift Problem from Charitable  
Fundraiser

You have asked for an immediate ruling on whether city officials have a problem in attending a screening of a motion picture filmed in San Diego which is being used for a charity fundraiser for a police organization. The charitable function set for April 26, 1989 is being put on by the Motion Picture Bureau, a City bureau, and is being underwritten by various business organizations by means of contributions to the bureau to defray expenses.

While the receipt of gifts may trigger disclosure or disqualification provisions of the Political Reform Act (California Government Code section 81000 et seq.), it is axiomatic that the gift must be from the donor to the public official to be within the purview of the act. California Government Code section 87103(e).

Inasmuch as the underwriters are making their contributions to the Motion Picture Bureau, a city bureau, and not to the city officials who attend, we believe the recipient of the gift of these funds is the City of San Diego and not the city officials who attend the event. Hence, there is no gift to the city official. Likewise, passes issued by a government agency to its own officials are not gifts within the meaning of Government Code section 82028.

Moreover, even if the underwriting is considered a gift to the official, you indicate that those officials attending are doing so because of your desire to have them present in a ceremonial role to meet film industry representatives. In such a situation 2 California Administrative Code 18726.7 would clearly exempt such passes from being considered gifts.

18726.7. Passes or Tickets Given to an Agency

Passes or tickets which provide admission or access to facilities, goods or services, or other tangible or intangible benefits (including passes to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, but not including travel or lodging), which

are provided to an agency official are not gifts to the official whenever (a), (b), (c) or (d) applies:

...

(d) The tickets or passes are provided to the agency official for use by the official and his or her spouse and immediate family because the official has an official or ceremonial role or function to perform on behalf of the agency at the event in question.

(2 Cal. Admin. Code Section 18726.7.)Emphasis added.

We recite the above only out of an abundance of caution since it is clear to us that passes issued by a governmental bureau to its own personnel who have duties at the function are not gifts as contemplated by the Political Reform Act. Since we find both that the pass is not a gift and that even so construed, it is specifically exempted, we need not review the valuation of the pass under 2 California Administrative Code section 18726.8. Since departmental conflict of interest codes flow from and mimic the definitions of the Political Reform Act discussed above, the same analysis applies.

Lastly, we note that this conclusion is consistent with our Opinion No. 79-1 issued February 27, 1979 regarding Passes to the Stadium Box and our Memorandum of Law of April 29, 1988 regarding Super Bowl Passes.

We trust this opinion answers your question and was expedited sufficiently to assist in the event in question.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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