



June 9, 2011

Chair Ann Ravel and Commissioners
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

RE: IP Meeting; Regulation Clarification Project

Dear Chair Ravel and Commissioners:

On behalf of the League of California Cities City Attorneys FPPC Committee, I submit this letter for comment on the above-referenced agenda item. I had the opportunity to attend the April 21 IP meeting on this project and provided comments reflected in the meeting summary compiled by staff. Since that time, the FPPC Committee has had an opportunity to discuss this effort. This letter is sent to provide additional comments that were generated in that discussion. Due to other commitments, I will not be able to participate in today's IP meeting; however, I wanted to send along the additional comments from our Committee for your consideration as you embark upon this important project.

The Committee's comments were primarily of a general nature and suggest principles that we recommend be used in guiding the effort to clarify the regulations. In addition, there is a specific recommendation with respect to the method of establishing the value of private travel for the purposes of applying the gift rules.

One of the principles the Committee believes should be used to guide the clarification effort is to establish bright lines for determining when a public official has a disqualifying conflict of interest. The committee members certainly recognize the daunting task involved in trying to define "ethical conduct," and recognize the efforts the Commission has made over the years to create objective standards for officials and their counsel to apply. Still, there remain circumstances when applying the rules is very difficult. This is especially true in determining the "reasonable foreseeability" of certain economic impacts of government decisions.

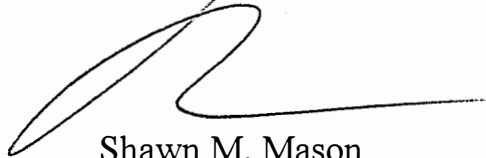
Another important principle identified by the Committee is the need, to the maximum extent possible, to re-write the rules in plain English easily comprehended by laypersons. Reading and comprehending the regulations is challenging for lawyers experienced in this practice. It is easy to imagine how confusing and frustrating it is for laypeople who just want to be able to read the rules themselves to determine if they can participate in a decision before their agency.

As to the specific comment on the private air travel regulation, from the Committee's perspective, the current regulatory approach to this issue is impractical to apply. Section 18946.6(b) provides that in establishing the value of non-commercial air travel the official must determine the "normal or usual charter fare or rental charge for a comparable airplane of comparable size" and divide that number by the number of persons on the flight who are "designated employees," public officials as defined in Government Code 87200, or certain specified federal officials and employees. The concern is that while this calculation may be easy to determine in some circumstances, there may be others where the official does not know and cannot easily determine, if at all, what portion of the other passengers fall within or without of these categories. The Committee would suggest a valuation approach that would be based upon the value of similar air travel, if it were obtained on a commercial service.

In closing, the Committee whole-heartedly endorses the Commission's goal of making the rules easier to understand and apply. Moreover, as lawyers who often are charged with drafting city laws and contracts we know how challenging this task can be. In offering the suggested principles above, we recognize that in and of themselves, they are not very helpful in moving toward the goal of a set of clear and useable regulations. With that in mind, we want to assure the Commission and your staff that we remain committed

to assist in whatever way we can in drafting and reviewing proposed amendments as they are developed through the regulatory clarification process the Commission has initiated.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a horizontal line extending to the right.

Shawn M. Mason
City Attorney of San Mateo