

Law Offices of

**OLSON
HAGEL &
FISHBURN
LLP**

February 23, 2012

VIA FACSIMILE: 916-322-6440

Chair Ravel and Commissioners Garrett, Rotunda, Montgomery and Escovitz
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

RE: Adoption of Regulation 18215.3

Dear Chair Ravel and Commissioners:

I write to provide comments on behalf of my client, the Senate Rules Committee. We appreciate the opportunity to provide comments on proposed Regulation 18215.3 and would like to thank the Commission for its work to clarify when a payment is "made at the behest" of an elected official for purposes of Government Code sections 82015(b)(2)(iii) and (b)(3).

We would also like to thank the Commission for its consideration and inclusion of an exception related to payments from a local, state or federal governmental agency in subsection (c) of the proposed regulation. However, we would like to raise two points about the way this exception is drafted.

First, subsection (c)(2) limits the exception to payments "that will be used in the regular course of official agency business of the elected officer or PUC member's agency." This requirement unnecessarily limits application of this exception. It eliminates circumstances where an elected official solicits payments from a governmental agency on behalf of an individual or organization, such as where an elected official writes a recommendation letter for an organization applying for a grant from a governmental agency or to the Student Aid Commission in support of a student in his or her district. These circumstances should be excepted from the definition of behested payment because there is no influence over the elected official where a governmental agency makes a payment in response to such a solicitation.

Second, subsection (c)(3) applies the exception only where "there is no personal or political benefit rendered to any elected officer or PUC member." We understand that this subsection has been removed from a subsequent draft of the regulation not yet available on the Commission's website. We support removing this language because the terms "personal benefit" and "political

Lance H. Olson
Glenn M. Fishburn
Deborah S. Caplan
Richard C. Mardich
Grace J. Hagel
of counsel
N. Eugene Hill
Richard R. Rice
Christopher W. Waddell
Lacey F. Keys
Matthew R. Cody
Joshua R. Daniels

555 Capitol Mall, Suite 1425 Sacramento, CA 95814-4602
Telephone: (916) 442-2952 Facsimile: (916) 442-1280 www.olsonhagel.com

Chair Ravel and Commissioners Garrett, Rotunda, Montgomery and Escovitz
February 23, 2012
Page 2

benefit” are undefined by the draft regulation, which reduces clarity and creates additional confusion as to what is covered by the exception. Moreover, it is difficult to define what constitutes a “political benefit” and it is possible that even an inconsequential personal or political benefit would be deemed to remove a governmental agency payment from the exception.

Again, thank you for the opportunity to provide these comments. Please do not hesitate to contact me with any questions.

Very truly yours,

OLSON HAGEL & FISHBURN LLP



LACEY E. KEYS

LEK:sjg

cc: Greg Schmidt & Sheron Violini, Senate Rules Committee

I:\WPDOC\PUBLIC\POL\89118\Comment Letter Adoption 18215 3_3 15 12.doc