

January 21, 2003

SDEC Informal Advice Letter No. IA03-02

Advice Provided to:

Casey Gwinn  
San Diego City Attorney  
1200 Third Avenue, Suite 1600  
San Diego, CA 92101

Re: Request for Advice Regarding Purchase of Super Bowl Tickets by City Officials

Dear Mr. Gwinn:

This advice letter has been prepared in response to a telephone conversation we had on January 17, 2003. You requested an advisory letter from the Ethics Commission answering the following question:

### **QUESTION**

If a City Official is offered the opportunity to purchase a Super Bowl ticket at face value by the National Football League or the Super Bowl Host Committee, would the purchase of that ticket be a violation of the City's Ethics Ordinance?

### **ANALYSIS AND CONCLUSION**

The Ethics Ordinance which is codified in the San Diego Municipal Code contains various restrictions on the receipt of gifts and benefits by City Officials. For the most part, the regulations in the Ethics Ordinance mirror the gift restrictions which are found in the Political Reform Act.

A gift is defined in the Ethics Ordinance as follows:

“Gift means any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public”

In the hypothetical you have described, the City Official has purchased the Super Bowl ticket for face value presumably for personal use. Having paid consideration of equal value for the benefit conferred, the purchase of the ticket is not considered a gift and the transaction is therefore not subject to the gift restrictions and gift reporting requirements in the Ethics Ordinance. This same analysis would apply for any special event, concert, dance or dinner where a City Official was offered the opportunity to purchase a ticket at face value, irrespective of whether the tickets were available to the public at large or only offered “by invitation only”, such as might be the case with an event sponsored by a private club or association.

It should be noted, however, that if the City Official who purchases the ticket elects to re-sell the ticket for face value, it could trigger reporting and disqualification requirements under the Ethics Ordinance if the face value of the ticket is \$500 or more. The proceeds of the sale of personal property, if over \$500, would be considered income under both the Ethics Ordinance and the Political Reform Act and thus triggers a threshold for reporting and disqualification purposes. Cal. Gov't Code § 87103; Cal. Code Regs. tit. 2, § 18703.3(a).

Lastly, I must mention that your hypothetical does not contemplate and this informal opinion does not analyze a situation where a City Official purchases a ticket for face value and re-sells that ticket for more than the face value. In this situation, the City Official would be profiting from the transaction and depending on who offered the ticket to the City Official, such a transaction could implicate other provisions of the Ethics Ordinance which restrict the conduct of City Officials who have been provided opportunities for compensation.

If you have any follow up questions, do not hesitate to contact me.

Sincerely,

Charles B. Walker  
Executive Director