STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
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RECORD PACKET COPY

August 30, 1996

TO: Committee on Management Audit,
Coastal Commissioners,
Interested Persons

FROM: Peter M. Douglas, Executive Director
Steven F. Scholl, District Director

SUBJECT: Ideas regarding "code of conduct" identified at the Commission's Committee on Management Audit meeting, August 13, 1996

The following ideas were offered at the Committee on Management Audit meeting by Commissioners or members of the public. As requested by the Commission on August 15, the ideas are summarized below.

A. Expectations for commissioners

1. Adopt code of conduct for commissioners.
2. Look at report of Senate Advisory Commission on Cost Control in State Government regarding commissioner conduct.
3. Commissioners to be independent.

B. Expectations for staff

1. Clarify who staff serves (Commission, public, etc.)
2. Full, fair, honest reporting to Commission of events, meetings, etc. involving staff.
3. Staff to report to the public "ex parte" communications.
4. Duty of staff to implement Coastal Commission directives.

5. Staff to take action only upon authorization by the Commission or Commission committee.

6. Code of loyalty to the Commission, so that any attempt to undercut Commission policy or directive, in communications with third parties, would warrant sanctions consistent with civil service law.

7. Loyalty oath to the Coastal Act.

8. Loyalty oath to the public.

9. Staff to be independent.

10. Staff to present recommendations and help Commission understand recommendations, but not to argue with Commission.

11. Staff to withdraw from any personal involvement in organizations that appear before the Commission or disqualify themselves from working on related matters.

12. Staff not to lobby on behalf of outside organizations to support or oppose a project.

13. Staff to include specialists and not just generalists.

14. Computer-based or other method (aside from relying on collective staff memory) to be developed with the goal of identifying Commission precedential decisions that would be relevant to future decisions; applicants to be informed of such precedents.

15. Hire trained evidence-gatherers for enforcement unit.

16. Hire staff geologist.

C. Expectations for attorneys

1. Staff counsel and Attorney General representatives to report to the Commission; maintain the confidentiality of legal advice and responses to questions; advice not to be shared with the balance of the staff or third parties, unless it involves an issue that the staff

must know as part of implementation of policy adopted by the Commission.

D. Public Information

1. Expand the "Q and A about the Coastal Act" brochure which is provided as public information to include an analysis of the Nollan, Dolan, and Lucas decisions by the U. S. Supreme Court.

2. Commission to adopt, publish, and distribute to the public a code of constitional conduct that delineates the public protection addressed in the Nollan, Dolan, and Lucas decisions of the U. S. Supreme Court so that every applicant is aware of those protections and can verify that he or she has not been asked to waive those protections in any way.

E. Permit application review

1. Staff not to have unilateral contacts with third parties regarding permit applications unless such contacts are logged, summarized, and available for review by the Commission, applicants, and public.

2. Staff not to negotiate for the Commission with applicants unless the negotiations are fully documented and available for Commission review of their entire contents and there is an opportunity for applicants to address those negotiations in public sessions without fear of reprisal.

3. Meetings between staff and applicants to be noticed 72 hours in advance and made open to members of the public to attend.

4. Retention of an ombudsman to arbitrate or settle disputes.

F. Commission hearing process

1. All matters material to the disposition of a permit application to be verified as in a court of law.

2. Use of sworn testimony, under penalty of perjury, during Commission hearings.

3. Hearings to be conducted by a hearing examiner, not before the Commission.

4. Retention of an independent judicial-oriented or legal person, assigned the responsibility to oversee the evidentiary aspects of the hearings so that there is compliance with fundamental due process requirements that otherwise exist in a court of law, such as avoiding hearsay, requiring personal knowledge of the witness, or proper foundation and qualification of an expert, disavowing undocumented third party claims, subjecting any person, pro- or anti- an application to cross-examination under oath, such as in a federal Congressional hearing where the Chairman allows the committee counsel to conduct further testimony and examination.

5. The applicant should be allowed to cross-examine the staff directly on a limited basis, in order to provide a right of confrontation and response.

6. Judicial officer to determine time required to resolve issues during public hearing in order to afford necessary protections to applicants.

7. Examine federal administrative procedures for ideas on ways to conduct public hearings.

G. Other ideas

1. Conduct Commission workshop on topics such as Commission mandates, legal requirements, etc.

2. If a decision is necessary as to how to implement the Nollan, Dolan, and Lucas decisions by the U. S. Supreme Court, it should evolve from evidence including testimony presented during the public hearing process and not from a demanded exaction from the staff before the hearing.

3. Commission should address diminution of value, or "partial takings": explore other, less onerous ways to achieve same results as proposed conditions; findings should identify what applicants can legally do with their property.

4. Commission should address "takings" from the public (i.e., loss of public resources, including cumulative loss through multiple projects) when developments are approved.

5. Commission should address court decisions other than Nollan, Dolan, and Lucas.

6. "Balancing" should occur only among Coastal Act policies; constitutional rights of applicants are absolute and are not to be balanced.

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August 30, 1996

TO: Coastal Commissioners, Interested Persons

FROM: Peter M. Douglas, Executive Director
Steven F. Scholl, District Director

SUBJECT: Materials governing conduct of staff and commissioners

As requested at the Commission meeting of August 13-16, enclosed are materials concerning existing requirements governing the conduct of Coastal Commission staff members as well as commissioners.

Attachments

A. Government Code Sec. 19990. Conflicting employment, activities or enterprises {affects staff and commissioners}

B. Statement of Activities which are Incompatible with Duties as an Officer or Employee of the California Coastal Commission (adopted by Commission) {staff and commissioners}

C. Government Code Sec. 19572. Causes for discipline {staff}

D. California Code of Regulations, Title 2, Sec. 172 General Qualifications {staff}

E. Information regarding oaths for staff and commissioners

(1) Government Code Sec. 18000 et seq. Oaths for State Employees
(2) Oath of Allegiance and Declaration of Permission to Work for Persons Employed by the State of California {staff}
(3) Oath for commissioners

F. Public Resources Code Article 2.5 Fairness and Due Process (ex parte communications) {commissioners}

G. A Guide to the Political Reform Act of 1974 - California's Conflict of Interest Law for Public Officials {staff and commissioners}

H. A Guide to Government Code Sec. 84308 of the Political Reform Act of 1974 (campaign contributions) {commissioners}

I. Conflict of Interest Code for the California Coastal Commission {staff and commissioners}

J. Form 721 Statement of Economic Interests {commissioners}

K. Form 730 Statement of Economic Interests {staff}

L. Affirmative Action/Equal Opportunity Policy Statement (April 25, 1984) {staff}

M. Restrictions on your activities as a former Coastal Commissioner (sample letter sent to former Chairman Williams) {staff and commissioners}

N. Memos to staff concerning miscellaneous conduct issues {staff}

(1) Staff behavior affecting applicant's representatives (August 6, 1992)
(2) Solicitation of membership in any organization (October 16, 1991)
(3) Press contacts (October 20, 1993)
(4) Contacts with members of the media (March 16, 1987)
(5) Coastal Commission employee principles of conduct (May 2, 1986)
(6) A drug free workplace (June 6, 1989)
(7) Calls to the chairman (May 8, 1989)
(8) Contacts from private vendors for the purpose of "selling" to state employees (September 23, 1987)
(9) Commission staff appearances before state and federal agencies (June 17, 1987)
(10) Support of Commission decisions (March 10, 1987)
(11) Presentations at Commission meetings (July 29, 1992)
(12) Some more thoughts on values (February 21, 1990)

O. Memo concerning direction provided to staff members with specific outside activities.

employees and memoranda of understanding reached pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) for represented employees.

(Added by Stats.1992, c. 103 (S.B.465), § 6, eff. June 30, 1992.)

Article 10

ACTIVITIES

Section
19990. Conflicting employment, activities or enterprises; rules; conflict of section with memorandum of understanding.
19990.5. Rendering services to nonprofit corporation formed to aid and assist state museum during office hours.

Article 10 was added by Stats.1981, c. 230, p. 1168, § 55.

§ 19990. Conflicting employment, activities or enterprises; rules; conflict of section with memorandum of understanding

A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

(a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another.

(b) Using state time, facilities, equipment, or supplies for private gain or advantage.

(c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.

(d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.

(e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.

(f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other

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thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.

(g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

The department shall adopt rules governing the application of this section. The rules shall include provision for notice to employees prior to the determination of proscribed activities and for appeal by employees from such a determination and from its application to an employee. Until the department adopts rules governing the application of this section, as amended in the 1985–86 Regular Session of the Legislature, existing procedures shall remain in full force and effect.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Added by Stats.1981, c. 230, p. 1168, § 55. Amended by Stats.1986, c. 1344, § 1.)

Historical and Statutory Notes

Derivation: Former § 19251, added by Stats. 1945, c. 123, p. 559, § 1, amended by Stats. 1949, c. 474, p. 822, § 1; Stats.1963, c. 1411, p. 2948, § 1; Stats.1978, c. 776, p. 2453, § 84. Stats.1937, c. 753, p. 2110, § 203.

Cross References

Applicability to employees of county sanitation districts, see Health and Safety Code, § 4768.
Effect of conflict between this section and memorandum of understanding with employee organization, see Government Code § 3517.6.
Rendering of service to nonprofit corporation to aid and assist state museum, see Government Code §§ 18000.5, 19990.5.
Restrictions on political activities, see Government Code § 3208.
Violation as cause for discipline, see Government Code § 19572.

Code of Regulations References

Incompatible activities, employees, see 9 Cal. Code of Regs. § 7411 et seq.

Law Review Commentaries

California conflict of interest laws. Dan Kaufmann and Alan I. Widiss (1963) 36 So.Cal. L.R. 186.

Library References

Officers and Public Employees ⟹30.1. WESTLAW Topic No. 283.
C.J.S. Officers and Public Employees §§ 27, 32.

Notes of Decisions

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1. Construction and application

Statute did not apply to police officer's fixing ticket. Orlandi v. State Personnel Bd. (1968) 69 Cal.Rptr. 177, 263 Cal.App.2d 32.

State employee could not be disciplined for incompatible and inimical services occurring between date of 1949 amendment providing for a determination by appointing power of what activities constitute incompatible services and date on which such a duly approved list was received by the employee. Shepherd v. State Personnel Bd. (1957) 307 P.2d 4, 48 Cal.2d 41.

2. Construction with other laws

The civil service constitutional amendment was adopted to secure a high standard of public service and conduct in public service, and Civil Service Act was enacted to implement and carry out the constitutional amendment, and the state personnel board was created to administer the Act and carry out those purposes. Genser v. State Personnel Bd. of Cal. (1952) 245 P.2d 1090, 112 Cal.App.2d 77.

Members of the south central coast regional commission and its staff are bound by conflict of interest provisions of the California Coastal Zone Conservation Act of 1972 and the Political Reform Act of 1974 as well as other statutes. 59 Ops.Atty.Gen. 314, 5-11-76.

3. Power of appointing authority

State department of corrections can only prohibit activities which are clearly inconsistent, incompatible, in conflict with, or inimical to employee's employment. Keely v. State Personnel Bd. (1975) 125 Cal.Rptr. 398, 53 Cal.App.3d 88.

4. Activities permitted

An attorney employed full-time by the Franchise Tax Board to research certain areas of tax law and advise the Board and other employees of the Board on such laws, including as part of his or her duties giving seminars to selected Board employees and private tax practitioners, during his or her off-duty hours may lawfully, inter alia, give identical seminars to private tax practitioners for compensation, teach a private law school course in tax law for compensation, or compile and publish a book upon the special area of tax law he or she has researched in performing his state duties. 73 Ops.Atty.Gen. 239 (1990).

An individual may simultaneously hold the elective position of member of the Los Angeles community college board of trustees and the civil service position of assistant superintendent of public instruction for the state department of education. 56 Ops.Atty.Gen. 556, 12-21-73.

Purchase of surplus property of the state department of water resources by a member of the youth authority board would not violate any applicable conflict of interest statute of the state, nor the common law doctrine against conflicts of interest in that the member enters the purchase in his private and not official capacity, and that the board had or has no jurisdiction in the award or the performance of the contract, that the member was in no sense contracting with himself, and that the member as a member of the board was in no position to influence or advise the department of water resources as to the award. 53 Ops.Atty.Gen. 163, 4-14-70.

There is no inherent incompatibility in the offices of city councilmen and deputy real estate commissioner, provided there is no interference with the performance of full time duty owed the state. 34 Ops.Atty.Gen. 244 (1959).

5. Inconsistent activities

Activities of motor vehicle investigator in selling new automobiles purchased from dealers by reason of preference gained through his official position, while perhaps not criminal, were inconsistent and incompatible with his position and were contrary to the spirit and intent of civil service amendment to constitution and violative of statutes, and justified his suspension. Genser v. State Personnel Bd. of Cal. (1952) 245 P.2d 1090, 112 Cal.App.2d 77.

Since the position of school district trustee involves the performance of acts which are subject to the control, inspection, review and enforcement by the California highway patrol, the holdings of the position of school district trustee is incompatible activity for a member of the California highway patrol. 34 Ops.Atty.Gen. 171 (1959).

There is no absolute prohibition against architects and engineers, who are state employees, engaging in private practice of their profession except with reference to school construction or such other employment as the employing state agency has or may determine to be "incompati-

ble activity" by the agency. 26 Ops.Atty.Gen. 273 (1955).

A civil service employee of the division of industrial safety employed in classification of "safety engineer" does not have the right to engage in consulting safety engineering work on either a fee or straight employment basis in addition to his employment within the division of industrial safety. 25 Ops.Atty.Gen. 295 (1955).

A franchise tax auditor or state income tax examiner may not hire himself out to do auditing or accounting work for a taxpayer in connection with records used by the taxpayer in preparation of franchise tax return or to prepare or give advice or assistance in preparation of such a return, but he would not be in violation of statute were he to hire himself out to do such work for a taxpayer under that law. 13 Ops.Atty.Gen. 84 (1949).

It is proper for county to employ and compensate a civil service officer or employee of the state and for such officer or employee to accept such employment and compensation if the following conditions exist and not otherwise (1) the compensation paid is for services to the county which the employee is not bound to render by virtue of his state employment and (2) the county employment is not inconsistent or incompatible or in conflict with the employee's state duties. 4 Ops.Atty.Gen. 202 (1944).

Outside employment which is inconsistent or incompatible or in conflict with state duties to the extent the public interest would be likely to suffer is cause for disciplinary action. 4 Ops. Atty.Gen. 202 (1944).

Outside employment which is inconsistent or incompatible or in conflict with state duties to the extent the public interest would be likely to suffer is cause for disciplinary action. 4 Ops. Atty.Gen. 202 (1944).

6. Statement of incompatible activities

The proscriptions of "Statement of Incompatible Activities" issued by department of motor vehicles prohibiting solicitation of personal loans, gifts, etc., the purchase of supplies or equipment at special discounts or to use for private gain any departmental symbol, etc., were not vague and indefinite. Hingsbergen v. State Personnel Bd. (1966) 50 Cal.Rptr. 59, 240 Cal.App.2d 914.

7. Recusancy of attorney general

There may be circumstances in which the function of the attorney general's office in prosecuting a certain defendant may be in such conflict with another lawful function of that office that a rescusal of the attorney general's office from the criminal prosecution is necessary; this may occur where the attorney general's office engages in a function that is in fact adverse to a particular function in which it previously was engaged. People v. Superior Court of San Luis Obispo County (1978) 148 Cal.Rptr. 704, 84 Cal.App.3d 491.

8. Witnesses

A private litigant or criminal defendant may require a department of justice criminalist to testify as an expert witness only where the criminalist has already performed an examination of particular evidence as part of his assigned duties; the criminalist cannot be required to give testimony on matters within his general field of expertise where he has had no connection with the specific case, nor can he be compelled to perform tests other than those he has already done. 61 Ops.Atty.Gen. 506, 11-21-78.

9. Evidence

Evidence, in action for writ of mandate brought by prison guard whose firing by department of corrections was upheld by state personnel board, was sufficient to support the board's determination that guard's involvement in liquor store business was inconsistent or incompatible with employment by department, despite guard's contention that he, as owner of store, could completely divorce himself from its operation. Keely v. State Personnel Bd. (1975) 125 Cal.Rptr. 398, 53 Cal.App.3d 88.

10. Dismissal

Where prison guard was informed by employer department of corrections pursuant to its own valid regulations and prior to guard's purchase of liquor store that his operation of store would be inconsistent with his employment, guard's subsequent firing due to his ownership of store was not punishment for failing to meet vague standard. Keely v. State Personnel Bd. (1975) 125 Cal.Rptr. 398, 53 Cal.App.3d 88.

Under provision of statute that a state employee shall not engage in any activity which has been determined to be inconsistent, incompatible, or in conflict with his duties as employee, where department of alcoholic beverage control, pursuant to statute, has filed statement of activities inconsistent, incompatible, or in conflict with such duties and statement contained denunciation of the receipt of gratuities from persons licensed by department, and agent of department had accepted drink, after lunch, on premises of licenses of department as gratuity from licensee, it was not abuse of discretion on part of state personnel board to dismiss agent. Byrne v. State Personnel Bd. (1960) 4 Cal.Rptr. 32, 179 Cal.App.2d 576.

Under provision of statute that a state officer or employee shall not engage in any activity which has been determined to be inconsistent,

incompatible, or in conflict with his duties, state personnel board could conclude that false statement by agent, who had been involved in collision while driving state automobile, to police officer about consumption of alcohol by agent constituted act incompatible with public service, and board could dismiss agent therefor. Byrne v. State Personnel Bd. (1960) 4 Cal.Rptr. 32, 179 Cal.App.2d 576.

§ 19990.5. Rendering services to nonprofit corporation formed to aid and assist state museum during office hours

Notwithstanding Sections 18000 and 19990, state officers and employees may render services during their office hours, or hours of work for the state, if compensation for these services may be made pursuant to Section 18000.5.

(Added by Stats.1986, c. 1513, § 2, eff. Sept. 30, 1986.)

Cross References

Rendering of services, state museum, see Government Code § 18000.5.

Article 11

ABSENCES

Section

19991. Taking of civil service examination or attendance at meetings during working hours; conflict of section with memorandum of understanding.
19991.1. Leave of absence without pay; duration; conflict of section with memorandum of understanding.
19991.2. Leave of absence for service in technical cooperation program; conflict of section with memorandum of understanding.
19991.3. Jury duty; conflict of section with memorandum of understanding.
19991.4. Period of absence for compensable injury or disease not a break in continuous service; permanent disability compensation; conflict of section with memorandum of understanding.
19991.5. Attendance of meetings and courses by medical personnel of veterans' home; conflict of section with memorandum of understanding.
19991.6. Pregnancy or childbirth recovery; conflict of section with memorandum of understanding; male parent leave; adoptions; changes in length of leave.
19991.7. Educational leave; conflict of section with memorandum of understanding.
19991.8. Military obligations or civilian war work.
19991.9. Educational leave of absence; veterans.
19991.10. Paid leaves of absence where not statutorily authorized.

Article 11 was added by Stats.1981, c. 230, p. 1168, § 55.

§ 19991. Taking of civil service examination or attendance at meetings during working hours; conflict of section with memorandum of understanding

(a) Upon giving two days' notice to his or her immediate superior, any state employee otherwise qualified shall be permitted to take any state civil service examination during working hours, if the examination is scheduled during such period, or to attend a meeting of the department or State Personnel Board at which is scheduled for consideration a matter specifically affecting his or her position concerning which he or she has requested to be heard, without

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STATEMENT OF ACTIVITIES WHICH ARE INCOMPATIBLE WITH DUTIES AS AN OFFICER OR EMPLOYEE OF THE CALIFORNIA COASTAL COMMISSION
(Government Code Section 19251)

As required by the Department of Personnel Administration, the Coastal Commission has adopted the following Statement of Incompatible Activities.

No officer or employee of the Coastal Commission shall engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as an officer or employee* (or with the duties, functions or responsibilities of the Coastal Commission.) The following employment, activities or enterprises by officers and employees of the Coastal Commission are considered to be inconsistent, incompatible, or in conflict with their duties:

1. The use for private gain or advantage of state time, facilities, equipment, supplies or the prestige or influence of one's office or employment. Examples include, but are not limited to:

    a. The use of confidential information acquired by virtue of state employment for private gain or advantage.

*** The rest of this sentence effectively deleted due to amendment in the law, which has also been renumbered to be Government Code Section 19990.**

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b. An undisclosed financial interest in any organization, firm, corporation or person who is subject to Commission regulation. Any such financial interest must be disclosed to the Employee's division manager, who must then determine that said interest is not incompatible with the employee's duties at the Commission.

2. The receipt or acceptance of any money or other consideration from anyone (other than the state) for the performance of an act which the officer or employee would be required or expected to render in the regular course of his or her employment or as part of his or her duties as a state officer or employee.

   a. This provision shall include accepting any gift or gratuity from any person who is subject to the Commission's review, or whose interests may be affected by the performance of the employee, under circumstances for which it could be reasonable inferred that the gift was intended to influence his or her official duties. This shall not apply to items so nominal that they could not influence an employee, such as coffee or sandwiches provided at working lunches, offered as an integral part of the employee's job.

3. The performance of an act in other than one's capacity as an officer or employee, which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such officer or employee or by the Commission. The following activities are therefore deemed incompatible:

   a. Working for interested parties (including local governments, developers, neighborhood organizations, aggrieved persons, etc. while employed by the Commission to work on projects or plans being reviewed by the Commission. This shall not prevent an employee from giving information, without consideration, regarding Commission policies and activities, to groups or individuals who may appear before the Commission.

   b. Entering into, engaging in any partnership, profit sharing, employment or other business arrangement, with any person who has or may be reasonably expected to sell equipment or supplies to the Commission, or serving on the board of directors or as an adviser, officer, consultant or employee of any corporation, association, partnership or other public or private agency which does, or may be reasonably expected to do business with the Commission.

4. Activities which involves such time demands as would render performance of one's duties as a state officer or employee less efficient.

   a. Such activities would be incompatible if they would involve outside employment which uses Commission time or facilities, or are subject to review and approval by the Commission.

The activities, employments or enterprises stated above do not attempt to specify every possible limitation on an officer or employee activity that might be determined and prescribed under the authority of Section 19251 of the Government Code, or which may otherwise be prohibited by statute, or administrative rule or

regulation governing the conduct of state officers or employees. It is not the desire of the Commission to inquire into the private affairs of its employees, or to interfere with the exercise of First Amendment rights. We do ask the cooperation of all employees in avoiding any activity, employment, or enterprise which conceivably might be inconsistent or incompatible or interfere in any way, with his or her duties as a State employee. Anyone planning such activities, employment or enterprise, is asked to consult with the manager of his or her division, with the personnel officer, or with the legal staff.

Chapter 7

SEPARATIONS FROM SERVICE

Article 1

DISCIPLINARY PROCEEDINGS

Section
19572. Causes for discipline.
19574. Adverse action; notice; contents; application to specified state employees.
19576.1. Suspensions of specified state employees; investigations; hearings; formal reprimands; appeals; use in progressive discipline; construction of section with other laws.
19582.51. Specified state employees; precedential decisions; designation; publication; arbitration.
19582.5. Precedential decisions.
19583.5. Filing charges against employee; consent of board or appointing power; limitation on charges filed by state employee; time period for filing request to board; answer; conduct of hearing; board action; exhaustion of administrative procedures.
19583.51. Requests for adverse actions against specified state employees; limitations of actions; employee rights; construction of section with other laws.

§ 19572. Causes for discipline

Each of the following constitutes cause for discipline of an employee, or person whose name appears on any employment list:

(a) Fraud in securing appointment.

(b) Incompetency.

(c) Inefficiency.

(d) Inexcusable neglect of duty.

(e) Insubordination.

(f) Dishonesty.

(g) Drunkenness on duty.

(h) Intemperance.

(i) Addiction to the use of controlled substances.

(j) Inexcusable absence without leave.

(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.

(l) Immorality.

(m) Discourteous treatment of the public or other employees.

(n) Improper political activity.

(o) Willful disobedience.

(p) Misuse of state property.

(q) Violation of this part or board rule.

(r) Violation of the prohibitions set forth in accordance with Section 19990.

(s) Refusal to take and subscribe any oath or affirmation which is required by law in connection with the employment.

(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing authority or the person's employment.

(u) Any negligence, recklessness, or intentional act which results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.

(v) The use during duty hours, for training or target practice, of any material which is not authorized therefor by the appointing power.

(w) Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, * * * disability, marital status, sex, or age, against the public or other employees while acting in the capacity of a state employee.

(x) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General, or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto.

(Amended by Stats.1995, c. 277 (A.B.1097), § 4.)

Historical and Statutory Notes

1995 Legislation

The 1995 amendment, in subd. (w), substituted "disability" for "physical handicap".

Notes of Decisions

Burden of proof 30.2

30.2. Burden of proof

In appeal to State Personnel Board, appointing authority bears burden of proof by preponderance of evidence that employee engaged in conduct on which disciplinary charge is based and that such conduct constitutes cause of discipline under relevant statutes. California Correctional Peace Officers Ass'n v. State Personnel Bd. (1995) 43 Cal.Rptr.2d 693, 10 Cal.4th 1133, 899 P.2d 79.

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in the examination. An examination may be given on a promotional–only basis, a combined open and promotional basis, an open–only basis, or an open, nonpromotional basis. Each announcement shall state the title, salary range, and where appropriate, the duties of the class; the method of evaluating the education, experience, and personal qualifications of the competitors; such information as is required by the act and these rules; and such additional information as the executive officer may deem proper. An examination may be canceled by the executive officer at any time prior to the establishment of the employment list.

NOTE: Reference: Section 18950, Government Code.

HISTORY

1. Amendment filed 11–1–72; effective thirtieth day thereafter (Register 72, No. 45). For prior history, see Register 70, No. 47.
2. Amendment of NOTE filed 4–8–77; effective thirtieth day thereafter (Register 77, No. 15).

§ 171.1. Amount of Time Required to Meet Minimum Qualifications.

Unless otherwise provided in the class specification adopted by the board, when determining whether an applicant has completed the minimum time required by the experience component in the minimum qualifications prescribed for the class, the following shall apply:

(a) The calendar time required shall have been in a full–time job or work assignment. A full–time job or work assignment is the maximum number of hours an individual can spend on a job without a requirement that he/she be given overtime compensation or, where overtime is not applicable, the number of hours required for an individual to receive full–time pay for the applicable work period.

(b) An applicant must have the required calendar time unless the applicant worked two different jobs concurrently. the time spent on two different qualifying jobs worked concurrently shall be added together to determine the total amount of qualifying experience.

(c) Hours worked on the same job in excess of full–time (i.e., overtime hours) shall not be credited as additional time.

(d) Less than full–time experience shall be credited based upon the percentage of full–time worked while employed less than full–time [e.g., half–time (50%) employment for six months equals three months of full–time experience].

NOTE: Authority cited: Government Code Section 18701. Reference: Government Code Section 18931.

HISTORY

1. New section filed 7–3–90; operative 8–2–90 (Register 90, No. 35).

§ 172. General Qualifications.

All candidates for, appointees to, and employees in the state civil service shall possess the general qualifications of integrity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume the responsibilities and to conform to the conditions of work characteristic of the employment, and a state of health, consistent with the ability to perform the assigned duties of the class. Where the position requires the driving of an automobile, the employee must have a valid state driver's license, a good driving record and is expected to drive the car safely. The foregoing general qualifications shall be deemed to be a part of the personal characteristics of the minimum qualifications of each class specification and need not be spe-

[The next page is 9.]

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cifically set forth therein. The board may prescribe alternative or additional qualifications for individual classes and such shall be made a part of the class specifications.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 18931 and 18935, Government Code.

HISTORY

1. Amendment of NOTE filed 4-8-77; effective thirtieth day thereafter (Register 77, No. 15). For prior history, see Register 72, No. 39.
2. Amendment filed 11-20-87; operative 12-20-87 (Register 87, No. 48).

§ 172.1. Waiver of Additional Special Personal Characteristics.

An alternative or additional special personal characteristic stated in the specification for an individual class may, upon the recommendation of the State Medical Officer, be waived for a "subject to proper placement" eligible for a specific position within the class wherein such waiver would not affect the satisfactory performance of the duties assigned to the specific position. Incumbents with "subject to proper placement" status may not transfer to another position within the class without a reevaluation of the incumbent's medical capabilities in relation to the new position. (Persons who are "subject to proper placement" have completed the medical examination; however, they have certain medical conditions that may hazardously conflict with the job duties or the performance required of most, but not all, positions within the classification.)

NOTE: Reference: Sections 18930 and 19253.5, Government Code.

HISTORY

1. New section filed 4-14-77; effective thirtieth day thereafter (Register 77, No. 16).

§ 172.2. Citizenship.

HISTORY

1. New section filed 12-24-57; effective thirtieth day thereafter (Register 58, No. 1).
2. Amendment filed 11-22-68 as an emergency; effective upon filing. Certificate of Compliance included (Register 68, No. 44).
3. Repealer filed 11-1-72; effective thirtieth day thereafter (Register 72, No. 45).

§ 172.3. Medical Examinations During Employment.

In accordance with Government Code Section 19253.5, the appointing power may require an employee to submit to a medical examination.

NOTE: Reference: Section 19253.5, Government Code.

HISTORY

1. Amendment of NOTE filed 4-8-77; effective thirtieth day thereafter (Register 77, No. 15). For prior history, see Register 67, No. 37.

§ 172.4. Definition of Psychological Screening.

Psychological screening is that part of the selection process whereby approval or disapproval for appointment to a peace officer position is based on a psychological evaluation performed by a qualified professional.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 18931, Government Code.

HISTORY

1. New section filed 2-22-88; operative 3-23-88 (Register 88, No. 10).

§ 172.5. Definition of Qualified Professional.

A qualified professional pursuant to Section 172.4 shall be either 1) any licensed physician and surgeon or 2) any licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 1031(f) Government Code.

HISTORY

1. New section filed 2-22-88; operative 3-23-88 (Register 88, No. 10). For history of former section 172.5, see Register 72, No. 28.
2. Change without regulatory effect amending section filed 9-16-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 39).

§ 172.6. Conduct of Psychological Screening.

The board shall be responsible for conducting psychological screening pursuant to Section 1(b) of Article VII of the Constitution of the State of California and Government Code Section 18931. No appointing power shall conduct psychological screening without board approval. Any request for approval must be submitted in writing to the board.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 18500, Government Code.

HISTORY

1. New section filed 2-22-88; operative 3-23-88 (Register 88, No. 10).

§ 172.7. Responsibility for Psychological Screening.

Upon the request of an appointing power and subject to board approval, the board shall conduct, or designate an appointing power to conduct, psychological screening of candidates for each class of public officers or employees declared by law to be peace officers. An appointing power designated by the board to conduct psychological screening shall do so in accordance with the procedures defined in Sections 172.8, 172.9, 172.10, and 172.11.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 1031(f) and 18931, Government Code.

HISTORY

1. New section filed 2-22-88; operative 3-23-88 (Register 88, No. 10).
2. Change without regulatory effect amending section filed 9-16-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 39).

§ 172.8. Standards and Procedures for Psychological Screening.

The standards and procedures for conducting psychological screening shall be as follows:

(1) Evaluations concerning the emotional stability of peace officer candidates must be made by a qualified professional as defined in Section 172.5.

(2) The screening procedures must include a minimum of two written psychological tests. At least one test must be based on patterns of abnormal behavior and at least one must assess characteristics of normal behavior.

(3) Any decision to disqualify must be based, in part, on a clinical interview which confirms the results of the written tests and substantiates the withholding or withdrawal of certification pursuant to SPB Section 172.9.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 1031(f) and 18931, Government Code.

HISTORY

1. New section filed 2-28-88; operative 3-23-88 (Register 88, No. 10).
2. Change without regulatory effect amending subsections (1) and (3) filed 9-16-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 39).

§ 172.9. Psychological Screening Withhold from Certification.

The board may withhold or withdraw from certification, prior to appointment, any person with an emotional or mental condition which might adversely affect the exercise of the powers of a peace officer. Such a condition shall include any clinical psychopathology (including personality disorders) which presents an imminent and substantial risk to safe and effective job performance. Such withholding or withdrawal of certification shall be substantiated by evidence of behavior manifested by the candidate which corroborates the presence of the psychopathology. The behavior need not be observed directly, as the evidence of such behavior may be obtained form (1) the clinical interview conducted with the candidate. (2) information collected by the board or the appointing power during the selection process or otherwise prior to appointment, or (3) information provided by the candidate verbally or in writing prior to appointment.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 18935, Government Code.

HISTORY

1. New section filed 2-28-88; operative 3-23-88 (Register 88, No. 10).

[Chapter 753, Statutes of 1937, as amended (the State Civil Service Act), has been repealed and the provisions relating to State employment have been codified in the Government Code, Chapter 123, Statutes of 1945. This compilation purports to contain all the law relating to State employment.]

Statutes of 1945, Chapter 123

[Approved by the Governor April 27, 1945. In effect September 15, 1945]

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

E.(1)

DIVISION 5. PERSONNEL

PART 1. GENERAL

CHAPTER 1. SALARIES

Article 1. General

18000. The salary fixed by law for each state officer, elective or appointive, is compensation in full for that office and for all services rendered in any official capacity or employment whatsoever, during his or her term of office, and he or she shall not receive for his or her own use any fee or prerequisite for the performance of any official duty. The provisions of Section 19839 do not apply to any state officer whose salary is fixed by statute.

(Amended by Stats. 1981, Ch. 230.)

18000.5. Notwithstanding Sections 18000 and 19990, any officer or employee of the state may receive for his or her personal use compensation from any nonprofit corporation formed exclusively to aid and assist a state museum for services rendered to the nonprofit corporation and for his or her expenses of performing these services, provided that the nonprofit corporation obtains the prior written approval of the Department of Personnel Administration to provide the compensation and files with the Controller by September 30 of each year a statement disclosing the names of state officers and employees compensated and their respective amounts of compensation for the preceding fiscal year, and the giving or receipt of the compensation is not in violation of any state or federal law.

The board of directors of the museum shall determine whether the services are incompatible with the state responsibilities of the officer or employee and whether the services rendered to the nonprofit corporation interfere with the officer's or employee's full-time obligation to the state. The board of directors of the museum also shall review any issues of compliance of the nonprofit corporation with the terms of any contractual arrangements with the state independently of the officer's or employee's receiving compensation from the nonprofit corporation.

(Added by Stats. 1986, Ch. 1513.)

18003. The Controller may, prior to the close of any pay roll period, draw his warrant in favor of any officer or employee covering the total salary or compensation earnable by him during such pay roll period, and may deliver the same to an authorized officer of the state agency within which the payee is employed, whether or not such salary or compensation is already earned in full. Upon delivery of any warrant to an authorized officer of a state agency as provided herein, the Controller and his bondsmen shall be under no further obligation for the proper disbursement of the amount of the warrant or the money represented by it. The Controller, pursuant to the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Division 3 of Title 2, shall adopt rules and regulations for the delivery of payroll warrants to employees.

(Amended by Stats. 1981, Ch. 307.)

18004. (a) Any report, study, audit, evaluation, survey, or similar document prepared by any state officer or state agency, which discloses any change in the numbers of state employees or personnel years over any period of time, shall also segregate the numbers of counted state employees or personnel years which are attributable to positions which are fully reimbursed by a local government agency pursuant to a contract with the Department of Forestry and Fire Protection.

(b) Those positions attributed to local government contracts with the Department of Forestry and Fire Protection shall not be subject to state personnel ceilings and hiring freezes.

(Amended by Stats. 1992, Ch. 427.)

CHAPTER 2. OATHS FOR STATE EMPLOYEES

(See Sections 3100 through 3109 of the Government Code)

18150. The oath required by this chapter is the oath set forth in Section 3 of Article XX of the Constitution of California.

(Amended by Stats. 1953, Ch. 1250.)

18150.5. If the provisions of this chapter are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such

provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Added by Stats. 1979, Ch. 1072.)

18151. The oath required by this chapter shall be taken and subscribed by:

(a) Every person who is appointed to a State position not in the State civil service and not otherwise so required by law, within 30 days of the date of appointment; and

(b) Every person who has not previously taken and subscribed the oath and who is employed in a permanent position in the State civil service where the employment continues for 30 days or more, within the first 30 days of his employment.

18152. The method and manner of taking, subscribing, and filing the oath by a person appointed to a State position not in the State civil service shall be as provided in Article 4, Chapter 2, Division 4, Title 1.

18153. The oath shall be taken by a state civil service employee before his appointing power or before any person authorized in writing by his appointing power or before any person authorized by law to administer oaths.

The oath shall be filed as prescribed by State Personnel Board rule within 30 days of the date on which it is taken and subscribed. The board shall prepare and furnish printed forms of the oath.

(Amended by Stats. 1967, Ch. 159.)

18154. Any person who is appointed to a State position not in the State civil service and who fails to take the oath required by this chapter within the time provided forthwith forfeits his right to his position, and the position shall be considered vacant.

18155. The failure of any person who is appointed to a permanent position in the State civil service to take and subscribe the oath within the time provided in this chapter, is a cause for dismissal by the State Personnel Board.

18156. Each civil service employee who takes, subscribes and files the oath within the time prescribed by Section 18151 is conclusively presumed to have been and to be legally holding his position as far as laws requiring him to take, subscribe, or file an oath are concerned.

18157. Every appointing power shall notify every new civil service employee immediately following his appointment of the provisions of this chapter that are applicable to the employee.

18158. No fee shall be charged by any person before whom the oath is taken and subscribed.

Chapter 3. Loyalty

18200. A person shall not be knowingly employed by any state agency or court who either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition, or treason against the Government of the United States or of this state.

Any person employed by any state agency or court shall be immediately discharged from his employment when it becomes known to his appointing power that he has, during the period of his employment, committed any such act.

Money appropriated from the treasury shall not be expended to compensate any person whose employment is forbidden by this section.

If the provision of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 1979, Ch. 1072.)

STATE OF CALIFO4NIA

OATH OF ALLEGIANCE AND DECLARATION OF PERMISSION TO WORK FOR PERSONS EMPLOYED BY THE STATE OF CALIFORNIA

STD. 689 (REV. 9-90)

Oath may be administered by a person having general authority by law to administer oaths--or may be administered by the appointing power, or by a person for whom written authorization to witness oaths has been executed by the appointing power. The appointing power maintains a file of such authorizations.

(Complete Parts 1 and 3 or Parts 2 and 3)

PART 1--OATH OF ALLEGIANCE

WHO MUST SIGN OATH--As required in Section 3 of Article XX of the Constitution of California, every State employee except legally employed noncitizens, must sign an oath or affirmation before he or she enters upon the duties of his or her State employment. Noncitizens are required to possess a Declaration of Permission to Work. If an alien employee becomes a naturalized citizen, an oath must then be obtained and filed.

WHEN OATH MUST BE SIGNED--As required in Government Code Section 3102, all public employees and all volunteers in any disaster council or emergency organization accredited by the California Emergency Council must sign an oath or affirmation before entering upon the duties of their employment. For intermittent, temporary or emergency employments, an oath or affirmation may, at the discretion of the employing agency, be effective for all successive periods of employment which commence within one calendar year from the date of the oath.

WHERE OATHS ARE FILED--As required in Government Code Section 3105, all oaths for public employees and all volunteers in any disaster council or emergency organization accredited by the California Emergency Council, shall be filed in the official employee file within 30 days of the date the oath is executed. The oath is considered a public record.

FAILURE TO SIGN--As stated in Government Code Section 3107, no compensation or reimbursement for expenses incurred shall be paid to any public employee or any volunteer in any disaster council or emergency organization accredited by the California Emergency Council unless such public employee has taken and subscribed to the oath or affirmation.

PENALTIES (Government Code)

"3108. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison not less than one nore more than 14 years."

(Type or print name of employee)

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

PART 2--DECLARATION OF PERMISSION TO WORK

I am a lawful permanent resident alien of the United States. ☐ YES ☐ NO

If **NO**, please read the following:

I hereby certify, that I have permission to work in this country and have declared any restrictions placed upon me in this regard by the United States government to the appointing power.

PART 3--SIGNATURE AND CERTIFICATION *(No fee may be charged for administering)*

EMPLOYEE'S SIGNATURE

▷

STATE DEPARTMENT OR AGENCY | DIVISION/UNIT

Taken and subscribed before me this

_____ Day of _____

AUTHORIZED OFFICIAL'S SIGNATURE

▷

AUTHORIZED OFFICIAL'S TITLE

(SEAL)

E.(2)

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OATH

for the Office of .....

.....

I, ..., *do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.*

.....

Subscribed and sworn to before me,

this ..... *day of* .....

A. D. 19.....

.....

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E.(3)

ARTICLE 2.5.

FAIRNESS AND DUE PROCESS

Section 30320.

(a) The people of California find and declare that the duties, responsibilities, and quasi-judicial actions of the commission are sensitive and extremely important for the well-being of current and future generations and that the public interest and principles of fundamental fairness and due process of law require that the commission conduct its affairs in an open, objective, and impartial manner free of undue influence and the abuse of power and authority. It is further found that, to be effective, California's coastal protection program requires public awareness, understanding, support, participation, and confidence in the commission and its practices and procedures. Accordingly, this article is necessary to preserve the public's welfare and the integrity of, and to maintain the public's trust in, the commission and the implementation of this division.

(b) The people of California further find that in a democracy, due process, fairness, and the responsible exercise of authority are all essential elements of good government which require that the public's business be conducted in public meetings, with limited exceptions for sensitive personnel matters and litigation, and on the official record. Reasonable restrictions are necessary and proper to prevent future abuses and misuse of governmental power so long as all members of the public are given adequate opportunities to present their views and opinions to the commission through written or oral communications on the official record either before or during the public hearing on any matter before the commission.

(Added by Ch. 1114, Stats. 1992.)

Section 30321.

For purposes of this article, "a matter within the commission's jurisdiction" means any permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusions from coastal development permit requirements, or any other quasi-judicial matter requiring commission action, for which an application has been submitted to the commission.

(Added by Ch. 1114, Stats. 1992.)

Section 30322.

(a) For purposes of this article, except as provided in subdivision (b), an "ex parte communication" is any oral or written communication between a member of the commission and an interested person, about a matter within the commission's jurisdiction, which does not occur in a

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(c) A representative acting on behalf of any civic, environmental, neighborhood, business, labor, trade, or similar organization who intends to influence the decision of a commission member on a matter before the commission.

(Added by Ch. 1114, Stats. 1992.)

Section 30324.

(a) No commission member, nor any interested person, shall conduct an ex parte communication unless the commission member fully discloses and makes public the ex parte communication by providing a full report of the communication to the executive director within seven days after the communication or, if the communication occurs within seven days of the next commission hearing, to the commission on the record of the proceeding at that hearing.

(b) (1) The commission shall adopt standard disclosure forms for reporting ex parte communications which shall include, but not be limited to, all of the following information:

(A) The date, time and location of the communication.

(B) The identity of the person or persons initiating and the person or persons receiving the communication.

(C) A complete description of the content of the communication, including the complete text of any written material that was a part of the communication.

(2) The executive director shall place in the public record any report of an ex parte communication.

(c) Communications shall cease to be ex parte communications when fully disclosed and placed in the commission's official record.

(Added by Ch. 1114, Stats. 1992)
(Amended by Ch. 798, Stats. 1993)

Section 30325.

Nothing in this article prohibits any person or any interested person from testifying at a commission hearing, workshop, or other official proceeding, or from submitting written comments for the record on a matter before the commission. Written comments shall be submitted by mail or delivered to a commission office, or may be delivered to the commission at the time and place of a scheduled hearing.

(Added by Ch. 1114, Stats. 1992.)

Section 30326.

Any person, including a commission member, may request the commission staff to conduct a workshop on any matter before the commission or on any subject that could be useful to the commission. When the executive director determines that a request is appropriate and feasible, a workshop shall be scheduled at an appropriate time and location.

(Added by Ch. 1114, Stats. 1992.)

Section 30327.

(a) No Commission member or alternate shall make, participate in making, or any other way attempt to use his of her official position to influence a commission decision about which the member or alternate has knowingly had an ex parte communication that has not been reported pursuant to Section 30324.

(b) In addition to any other applicable penalty, including a civil fine imposed pursuant to Section 30824, a commission member who knowingly violates this section shall be subject to a civil fine, not to exceed seven thousand five hundred dollars ($7,500). Notwithstanding any law to the contrary , the court may award attorney's fees and costs to the prevailing party.

(Added by Ch. 1114, Stats. 1992.)
(Amended by Ch. 798, Stats. 1993.)

Section 30328.

If a violation of this article occurs and a commission decision may have been affected by the violation, an aggrieved person, as described in Section 30801, may seek a writ of mandate from a court requiring the commission to revoke its action and rehear the matter.

(Added by Ch. 1114, Stats, 1992.)

AUG 1993
Received
California
Coastal Commission

A GUIDE TO THE
POLITICAL REFORM ACT OF 1974

CALIFORNIA'S CONFLICT OF INTEREST LAW FOR PUBLIC OFFICIALS

(OTHER THAN MEMBERS OF THE LEGISLATURE, CONSTITUTIONAL OFFICERS AND THE INSURANCE COMMISSIONER)

A GUIDE TO THE
POLITICAL REFORM ACT OF 1974

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, California 95804

Legal Division 916/322-5901
Statements of Economic Interests 916/322-5662
Enforcement Division 916/322-6441

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Introduction

The purpose of this pamphlet is to provide a brief overview of the conflict of interest provisions of the Political Reform Act.[1/]

The Political Reform Act requires public officials at all levels of government to publicly disclose their private economic interests and to disqualify themselves from participating in decisions in which they have a financial interest. This pamphlet is intended to help public officials understand and abide by the laws concerning disclosure and disqualification. It is also intended as a guide for members of the public who are concerned about maintaining impartial government decision-making. For persons interested in conducting further research on the conflict of interest laws, the pamphlet contains footnotes which cite the applicable statutes and regulations, as well as selected cases and Fair Political Practices Commission opinions.

The pamphlet commences with an introduction to the Fair Political Practices Commission and the Political Reform Act. It then summarizes the disclosure and disqualification requirements for public officials, and explains how to seek assistance from the Fair Political Practices Commission concerning conflict of interest questions. The pamphlet concludes with a brief description of Government Code Section 1090 and other laws which relate to conflicts of interest, and suggests methods of obtaining additional information about those laws.

The discussion in this pamphlet is necessarily general. It will answer most of the basic questions about the conflict of interest provisions of the Political Reform Act. If you have specific questions or problems, you should consult the statutes, regulations, court decisions and the opinions of the Fair Political Practices Commission. The Fair Political Practices Commission will provide assistance with specific questions about the Political Reform Act. You also may wish to refer the matter to the attorney for the agency in question or to a private attorney for consultation on specific requirements of the law.

Fair Political Practices Commission

The Fair Political Practices Commission consists of five members, including a full-time chairman. No more than three may be from the same political party.

The chairman and one member, who must be from different political parties, are appointed by the Governor. The three remaining commissioners are appointed, respectively, by the Attorney General, the Secretary of State and the Controller. Commissioners serve four-year terms and may not be reappointed once they have completed a full term.

The Fair Political Practices Commission has primary responsibility for the impartial, effective administration of the Political Reform Act. The Commission adopts regulations to implement and clarify the Political Reform Act. These regulations are found in Title 2 of the California Code of Regulations, Section 18000, et seq. The Commission also issues opinions and advice letters, conducts seminars, prescribes forms, publishes manuals, issues reports, and enforces the requirements of the Political Reform Act.

The Political Reform Act

The Political Reform Act was enacted by the people of the State of California by an initiative, known as Proposition 9, in 1974. This initiative statute was enacted to accomplish the following purposes:

(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

(b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.

(c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.

(d) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures.

(e) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly.

(f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.[2]

This pamphlet is a guide to the conflict of interest provisions of the Political Reform Act.

* * *

How does the Political Reform Act prevent conflicts of interest?

1. By Disclosure: The Political Reform Act requires every public official to disclose all economic interests, such as investments, interests in real estate (real property), or sources of income or gifts, which the official may possibly affect by the exercise of his or her official duties. Disclosure is made on a form called a "statement of economic interests."[3]

2. By Disqualification: If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence or attempt to influence a governmental decision.[4]

* * *

Who must file statements of economic interests under the Political Reform Act?

The Governor, members of the Legislature, elected state and local officials, judges and commissioners of courts of the judicial branch of government, and all high ranking state and local officials must file statements of economic interests.[5] Other officials or employees of state and local government agencies also must file statements of economic interests if they are "designated" in a conflict of interest code adopted by the agency for which they work.[6] Each agency must adopt a conflict of

interest code which designates all its officials or employees who make or participate in governmental decisions which could cause conflicts of interest.[7] Unpaid members of boards and commissions and consultants to state or local government agencies also may be required to file statements of economic interests if they make or participate in making governmental decisions which could affect private financial interests.[8]

The disclosure required by a particular designated official or employee must be narrowly drawn to include only the kinds of economic interests he or she could significantly affect through the conduct of his or her office.[9] For example, the executive officer of an agency with extensive regulatory powers, through the exercise of his or her official position, could affect a broad range of private economic interests. The executive officer would thus be required to disclose all investments, interests in real property, sources of income, and business entities in which he or she is a director, officer, partner, trustee, employee or holds any position of management.

In contrast, an employee of the same agency whose duties are limited to reviewing contracts for supplies, equipment, materials or services provided to the agency would be required to report only those interests he or she holds which are likely to be affected by the agency's contracts for supplies, equipment, materials or services. The employee would report sources of income and business entities in which he or she has an investment or is a director, officer, partner, trustee, employee or holds any position of management, if the business entity or source of income is of the type which within the previous two years has provided supplies, equipment, materials or services to the agency.

Each government agency has a list of all agency officials and employees who must file statements of economic interests.[10] Anyone may inspect the conflict of interest code and this list.

The Commission's Technical Assistance and Analysis Division provides assistance to public officials who have questions regarding the forms for disclosure of economic interests. Questions about the adoption or amendment of an agency's conflict of interest code may be addressed to the Commission's Legal Division.

* * *

Are statements of economic interests available to the public?

Statements of economic interests are public records. Any member of the public must be permitted to inspect and copy any statement during normal business hours. No more than 10 cents per page may be charged for copies. In addition, a $5 retrieval fee per request may be charged for statements which are five or more years old. A request for more than one report or statement at the same time is considered a single request. No other conditions may be imposed on inspection and copying. No one may be required to identify himself or herself or sign anything in order to be permitted to inspect or copy statements.[11]

Statements of economic interests must be kept on file by the official's or employee's agency and made available upon request.[12] Statements of certain officials, including elected state officials, members of the Legislature, judges, court commissioners,

most high ranking state officials, many elected local officials, planning commissioners, city and county chief administrative officers, city managers, city attorneys, county counsel and city and county treasurers are also available at the office of the Fair Political Practices Commission.[13]

* * *

Who may be disqualified under the Political Reform Act?

The disqualification requirements of the Political Reform Act apply to all elected state and local government officials, to all appointed state or local government officials, and to all governmental agency employees, except judges and court commissioners.[14] Unpaid members of boards or commissions and consultants to state or local government agencies who, on an ongoing basis, play a significant role in the decision-making process may also be required to disqualify themselves under the Act when faced with a decision that could affect their private economic interests.[15]

* * *

What is a conflict of interest?

A public official or employee has a conflict of interest when all of the following occur:

1. The official makes, participates in, or uses his or her official position to influence a governmental decision;

2. It is foreseeable that the decision will affect the official's economic interest;

3. The effect of the decision on the official's economic interest will be material;

4. The effect of the decision on the official's economic interest will be distinguishable from its effect on the public generally.

Each of these four components of a conflict of interest are discussed below.

The first component of a conflict of interest is whether the official makes, participates in, or uses his or her official position to influence a governmental decision.[16]

A governmental decision is any decision made by a government body or by a government official or employee in his or her official capacity. Governmental decisions include: decisions on ordinances, regulations and resolutions; decisions on contract awards, purchases and leases; decisions on hiring, firing and personnel actions; decisions on land use, zoning, redevelopment plans, permits and variances; and decisions on any other matter which may come before a state or local government agency. Governmental decisions do not include purely private decisions made by a public official in his or her personal capacity.

A public official makes a governmental decision when he or she, acting within the authority of his or her office, does any of the following:

- Votes on a matter.
- Appoints a person.
- Obligates or commits his or her agency to any course of action.

- Enters into any contractual agreement on behalf of his or her agency.

- Determines not to act in any of the ways described above, unless that determination is made because the official has disqualified himself or herself due to a conflict of interest.[17]

For example, a public official makes a governmental decision when he or she votes as a member of a board, commission or council on any governmental decision, regardless of the outcome of the vote. Whether the official votes for or against the action, or for or against his or her economic interest, the official makes a governmental decision when he or she votes on the decision.

In addition, public officials, including heads of departments, directors of agencies, and employees of state or local government agencies, make governmental decisions when they take or authorize any official action on behalf of their agencies. A determination that an agency will not take a particular action is also a governmental decision.

A public official <u>participates in a governmental decision</u> when he or she responds to comments, takes part in discussions, or advises or makes recommendations to a decision-maker, whether or not the decision-maker ultimately follows the official's advice.[18] A consultant who is hired under contract with a government agency to prepare a report or analysis or to directly advise the decision-maker may be participating in a governmental decision.[19] Whether a consultant participates in a governmental decision depends on the duties of the consultant. Specific questions on this subject should be addressed to the Commission staff. A public official who negotiates on behalf of his or her agency with any other public or private agency or with any person outside his or her agency concerning a governmental decision participates in that decision.[20]

An employee whose actions are solely ministerial, secretarial, clerical or manual does not make or participate in governmental decisions.[21]

A public official <u>influences or attempts to influence a governmental decision</u> when the official appears before any governmental agency in his or her official capacity and urges that a particular governmental decision be made. Contacts with any individual within a government agency for the purpose of urging a particular decision or result are also considered influencing or attempting to influence a governmental decision.[22]

A public official can sometimes influence a governmental decision when acting in a private, as well as in an official capacity. For example, an official who appears as the representative of a third party before the official's own agency is influencing or attempting to influence a governmental decision. So is an official who, as the representative of a third party, appears before an agency subject to the appointive or budgetary control of the official's agency.[23]

The following actions by an official are <u>not</u> considered influencing or attempting to influence a governmental decision:

- Appearing before any agency, including his or her own agency, <u>in the same manner as any other member of the general public</u>, to represent only

himself or herself on a matter affecting real property or a business entity wholly owned by the official, his or her spouse or dependent children.[24]

- Appearing as a private citizen before an agency that is independent of the appointive or budgetary control of the official's own agency. The official must not act or purport to act as the representative of his or her own agency, or use his or her agency's official stationery in any communications.[25]

- Communicating with the general public or the press.[26]

The second component of a conflict of interest is whether it is foreseeable that the decision will affect the official's economic interest.

An official's economic interest is affected whenever a governmental decision affects the official in one of the following ways:

- The decision affects the official's personal financial status, or that of his or her spouse or dependent children.[27] This does not apply, however, to decisions which affect the official's own government salary. It applies to any decision which affects the government salary of an official's spouse only if the decision is to hire, fire, promote, demote or discipline the spouse, or to set a salary for the spouse that is different from salaries paid to other employees in the same job classification or position.[28]

- The decision affects a business entity located in, doing business in, owning real property in, or planning to do business in the official's jurisdiction, in which the official, or his or her spouse or dependent child has an investment of $1,000 or more.[29] Investments in a business entity include: ownership of stock, bonds, or commercial paper; a general or limited partnership interest; or any other form of ownership interest in a business entity. Investments do not include: bank accounts; interests in mutual funds, money market funds, or insurance policies; or government bonds or securities.[30] Business entities include: corporations; partnerships; joint ventures; sole proprietorships; and any other type of enterprise operated for a profit. A nonprofit organization is not a business entity.[31]

- The decision affects real estate [illegible]al property) located in the official's jurisdiction and the official, or his or her spouse or dependent child has an interest of $1,000 or more in that real estate.[32] Interests in real property include: ownership (equity); deeds of trust (mortgages); leaseholds; options to buy; and joint tenancies.[33] A month-to-month lease is not an interest in real property.[34]

- The decision affects a person, business entity, or nonprofit entity located in, doing business in, owning real property in, or planning to do business in the official's jurisdiction, from which the official has received income of $250 or more, or the official's spouse has received income of $500 or more, in the past 12 months.[35] With certain exceptions, income includes: salaries;

commissions; rents; payments received for goods or services (including payments for sale of a home, automobile or investment); loans (including loans previously made but still outstanding); and all other types of payments.[36] Income means gross income or payments received, rather than net income, profits or taxable income. Income does not include: government salaries; inheritances; dividends, interest or premiums from publicly traded stock, mutual funds, bank accounts, credit unions or insurance policies; alimony or child support; loans of $10,000 or less from banks, credit unions, or credit cards on terms generally available to the public; mortgages on a principal residence on terms generally available to the public; loans from family members; or most pensions.[37]

- The decision affects a person, business entity, or nonprofit entity from whom the official has received gifts of $250 or more in the past 12 months.[38] This includes gifts from sources inside and outside the official's jurisdiction, except for gifts from specified family members.[39] Gifts provided to the official's spouse or children, rather than to the official, are generally not considered gifts to the official.[40]

- The decision affects a business entity, other than a nonprofit organization, in which the official is a director, officer, partner, trustee, employee or holds a position of management.[41]

In order to create a conflict of interest, the effect of a governmental decision on an official's economic interest must be foreseeable.[42] An effect on an official's economic interest is foreseeable when there is a substantial likelihood that it will ultimately occur as a result of a governmental decision. Even during the preliminary phases of a decision, an official must consider whether the end result of a decision is likely to affect his or her economic interests. An effect does not have to be certain to be foreseeable; however, if an effect is a mere possibility, it is not foreseeable.[43]

The third component of a conflict of interest is whether the effect of the decision on the official's economic interest will be material.[44]

It is usually necessary to estimate the dollar value of the effect of a decision on the official's economic interest to determine whether the effect is material. Specific circumstances under which an effect is material are set forth in the Commission's regulations.[45]

An effect of $250 or more on the personal income, assets (other than real estate), or out-of-pocket expenses of the official, or of his or her spouse or dependent children, is material.[46] For purposes of determining whether there is a conflict of interest, it does not matter whether the financial effect increases or decreases the personal income, assets, or expenses.

When an official has an investment in, or receives income from, a business entity, it is necessary to consider how governmental decisions would affect the business entity. An official may be disqualified from participating in a decision even though the decision would not affect the value of his or her investment or the amount of income he or she receives.[47]

Whether an effect on a business entity will be considered material depends on the financial size of the business entity.[48] For example, an effect of only $10,000 on the gross revenues or assets of a small business is material,[49] while a $1 million effect on the gross revenues or assets of a Fortune 500 company is material.[50] Similar dollar tests apply to individuals and nonprofit entities which have been a source of income or gifts.[51]

A similar dollar test also applies to effects on real property when the property is not directly affected by the decision. Whether an effect on such real property will be considered material depends on its distance from the property which is the subject of the decision and the dollar amount of the effect. For example, property within 300 feet of the property which is the subject of the decision is materially affected unless there is no financial effect. Property located within a 300 - 2500 foot radius of the property which is the subject of the decision is materially affected if its fair market value is increased or decreased by $10,000, or if its rental value is increased or decreased by $1,000 per 12 month period.[52]

The effect of a decision on an official's leasehold interest in real property, is material if it will increase or decrease the amount of rent by $250 or 5 percent during any 12 month period, or if the decision will significantly affect the use or enjoyment of the property or its legally allowable use.[53]

Sometimes it is difficult to give a dollar value to the effect of a governmental decision. In such cases, it is necessary to consider whether the decision could significantly affect the official's economic interests.[54] For example, the effect may be material if the official's receipt of income from a private source is directly related to the decision.[55]

In special situations, an effect is considered material regardless of its dollar value. These situations include the following:

- A person or business entity in which the official has an investment interest worth $1,000 or more, or which is a source of income of $250 or more to the official in the last 12 months, is directly involved in a decision before the official's agency.[56] A person or business entity is directly involved in a decision before an official's agency if it is the subject of the proceeding or initiates the proceeding by filing an application, claim, appeal or similar request.[57]

- The decision would affect the zoning, annexation, sale, lease, actual or permitted use of, or taxes or fees imposed on real property in which the official has an interest of $1,000 or more.[58]

- The decision is to designate the survey area, select the project area, adopt the preliminary plan, form a project area committee, certify the environmental document, adopt the redevelopment plan, add territory to the redevelopment area, or rescind or amend any of these decisions; and the official has an interest in real property in the boundaries, or the proposed boundaries of the redevelopment area.[59]

The fourth component of a conflict of interest is whether the effect of the decision on the official's economic interest will be

* * *

What should a public official who has a conflict of interest do?

When a public official determines that a particular governmental decision will foreseeably and materially effect his or her economic interest, in a manner that is different from the effect on the general public, the official has a conflict of interest. The official is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision.[62] This is called disqualification. When an official disqualifies himself or herself from a governmental decision because of a conflict of interest, the reason for the disqualification must be announced (in the case of a member of a voting body), or disclosed in writing (in the case of all other officials).[63]

* * *

Is a governmental decision valid if it was made by an official who had a conflict of interest?

A governmental decision is not automatically invalidated by the participation of an official who had a conflict of interest. However, it may be set aside by a court if the court determines that an official who made the decision had a conflict of interest, that without that official's actions the decision would not have been made, and that setting aside the decision will not cause injury to innocent persons.[64]

* * *

May a public official ever make a decision in which he or she has a disqualifying financial interest?

The law recognizes a type of "rule of necessity" for those rare situations in which a public official is legally required to make or participate in a decision, even though the official has a disqualifying financial interest.[65] This rule is different from the common law "rule of necessity." It applies only when no one else has the legal authority to make or participate in the decision.[66] In such a case, the Political Reform Act allows the official to make or participate in the decision, so long as the existence and nature of the official's financial interest is put on the public record, and the official does not try to influence the decisions of others outside of a public meeting.[67]

An official is not legally required to [illegible]e or participate in a decision simply because the official's vote is needed to break a tie, or because the official is needed for a quorum as a result of some other official's absence.[68] However, there is a limited exception. If so many members of an agency are disqualified because of conflicts of interest that no decision is possible because a quorum of qualified members cannot be convened, there is a procedure for allowing some officials who have a disqualifying financial interest to vote. In that case, the additional number of officials necessary to constitute a quorum may be selected by drawing lots, or through some other method of random selection.[69] The officials selected may vote and make statements or ask questions during a public meeting.[70]

distinguishable from its effect on the public generally.[60]

An official does not have a conflict of interest if the effect of a governmental decision on the official's economic interest is no different from its effect on most other persons or interests in the jurisdiction. For example, a decision to impose a city sales tax, which will affect all residents of the city, does not affect any individual city councilmember (no matter how much he or she pays in sales taxes) in a different manner than it affects the public generally, and, as a result, does not create a conflict of interest for any city councilmember. By way of contrast, a decision concerning a zoning variance for an official's business or home, which has a different effect on the official's economic interest than on other members of the general public, does constitute a conflict of interest for the official.

Public Generally Rule for Small Jurisdictions

Additionally, in small jurisdictions (population of 25,000 or less and geographic area of 10 square miles or less) the effect of a decision on an official's principal residence is deemed to be no different from it's effect on the public generally if all the following requirements are also met:

- The public official is required to reside within the jurisdiction.
- The public official, if he or she is an elected officer, has been elected in an at-large election.
- The decision does not have a direct effect (as provided in Regulation 18702.1 (a) (3)) on the public official's principal residence.
- The principal residence is more than 300 feet from the boundaries of the property which is the subject of the decision.
- The principal residence is located on a parcel of land of one quarter acre or less, or a residential lot not larger than 125 percent of the median residential lot size for the jurisdiction.[61]

In summary, there are four questions to ask in determining whether an official has a conflict of interest:

1. Will the official make, participate in, or use his or her official position to influence a governmental decision?

2. Is it reasonably foreseeable that the decision will affect the official's economic interest?

3. Will the effect of the decision on the official's economic interest be material?

4. Will the effect of the decision on the official's economic interest be distinguishable from its effect on the public generally?

The answer to each of these four questions must be yes for the official to be disqualified from a decision because of a conflict of interest.

***

What are the penalties for violation of the conflict of interest provisions of the Political Reform Act?

The Fair Political Practices Commission can bring an administrative action against an official who has violated the disclosure or disqualification requirements of the Political Reform Act, and may impose administrative penalties of up to $2,000 for each violation.[71] An official who violates the Act may be subject to a civil lawsuit, in which a court may impose a fine.[72] A willful violation of the Act is also a misdemeanor, punishable by a fine and/or by imprisonment; it also may result in the official being ineligible to run for public office for four years.[73] The fine for a willful conflict of interest violation may be up to $10,000; the fine for willfully failing to disclose an economic interest may be up to $10,000 or three times the amount not disclosed, whichever is greater.[74] These penalties apply to violations of the disclosure requirements of the Act by any public official.[75] However, they do not apply to violations of the disqualification provisions of the Act by the Governor, other constitutional officers or members of the Legislature.[76] They do apply to disqualification violations by all other public officials.

* * *

How can a public official find out if he or she has a conflict of interest?

When a public official suspects that he or she may have a conflict of interest in an upcoming decision, the attorney for the official's agency should be consulted. The official can also ask the Legal Division of the Fair Political Practices Commission for advice. Requests for written advice are generally answered within 21 working days,[77] although written or telephone advice may be given more quickly in urgent situations. If an official poses a question which is unusually complex, significant or unique, the full Commission may issue an opinion, although this process takes longer.[78] The Commission provides advice only about the Political Reform Act; the Commission will not answer questions about Government Code Section 1090 or other laws which are not part of the Political Reform Act.

If the Commission advises an official in writing that disqualification is not necessary, and the official has truthfully provided all material facts, the official is provided with immunity against any administrative action brought by the Commission arising from the same conflict of interest charges. Reliance on the written advice also serves as evidence of good faith conduct in any civil or criminal proceeding based on the same charges.[79]

The Commission may only issue opinions or give advice regarding conflicts of interest to the official who may have to be disqualified, or to the official's authorized representative.[80] Advice about specific situations will not be given to members of the public, or to other persons who are interested in whether or not an official should be disqualified from the specific decision.

In addition, the Commission will not issue an opinion or provide advice about an official's past conduct. These questions are referred to the Enforcement Division of the Fair Political Practices Commission.

Whether a public official has committed a violation of the Political Reform Act is determined after investigation by the Commission's Enforcement Division.

All Commission regulations, opinions and enforcement decisions are published by the California Continuing Education of the Bar. Virtually all advice requests and advice letters are public records.[81/] Opinions, significant advice letters and enforcement cases are summarized in the Commission's monthly Bulletin. Copies of opinions, advice letters and enforcement decisions can be obtained from the Commission.

* * *

What should you do if you suspect that a public official has violated the conflict of interest provisions of the Political Reform Act?

Complaints concerning violations of the conflict of interest provisions of the Political Reform Act should be made to the local district attorney, the Enforcement Division of the Fair Political Practices Commission, or the Attorney General.

* * *

Campaign contributions and governmental decision-making.

The Political Reform Act also contains Government Code Section 84308, a provision which deals specifically with conflicts of interest and campaign contributions. Government Code Section 84308 is discussed in detail in a pamphlet entitled "A Guide to Government Code Section 84308--Conflicts of Interest and Campaign Contributions." This pamphlet is available from the Fair Political Practices Commission.

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Government Code Section 1090 and other laws.

Government Code Section 1090 and other laws not included in the Political Reform Act apply to specific situations where public officials may have conflicts of interest. For example, Government Code Section 1090 applies to conflicts of interest involving contracts made by officials of public agencies, and Health and Safety Code Section 33130 applies only to certain redevelopment situations. The Fair Political Practices Commission has no authority to advise public officials about the application of these laws, or to enforce them. That responsibility belongs to city attorneys, county counsel other public agency attorneys, district attorneys, and the State Attorney General.

Footnotes

1/ Gov. Code §§ 81000-91015.
2/ Gov. Code §81002.
3/ Art. 2 (commencing with §87200), Art. 3 (commencing with §87300), and Art. 5 (commencing with §87500), Ch. 7, Title 9, Gov. Code govern disclosure.
4/ Art. 1 (commencing with §87100), Ch. 7, Title 9, Gov. Code governs disqualification.
5/ Gov. Code §87200.
6/ Art. 3 (commencing with §87300), Ch. 7, Title 9, Gov. Code.
7/ Gov. Code §87300.
8/ See, Commission on Cal. State Gov. Org. & Econ. v. Fair Political Practices Com. (1977) 75 Cal. App. 3d 716; In re Siegel (1977) 3 FPPC Ops. 62; In re Leach (1978) 4 FPPC Ops. 48.
9/ 2 Cal. Code of Regs. §18730(b)(3); Hays v. Wood (1979) 25 Cal. 3d 772.
10/ Gov. Code §87302(a).
11/ Gov. Code §81008.
12/ Gov. Code §81009.
13/ Gov. Code §87500.
14/ Gov. Code §§ 82048 and 87100.
15/ Gov. Code §82019; 2 Cal. Code of Regs. §18700; see, In re Maloney (1977) 3 FPPC Ops. 69.
16/ Gov. Code §87100; 2 Cal. Code of Regs. §§ 18700 and 18700.1.
17/ 2 Cal. Code of Regs. §18700(b).
18/ 2 Cal. Code of Regs. §18700(c).
19/ 2 Cal. Code of Regs. §18700(c)(2).
20/ 2 Cal. Code of Regs. §18700(c)(1).
21/ 2 Cal. Code of Regs. §18700(d).
22/ 2 Cal. Code of Regs. §18700.1.
23/ 2 Cal. Code of Regs. §18700.1.
24/ 2 Cal. Code of Regs. §18700.1(b)(1).
25/ 2 Cal. Code of Regs. §18700.1(c).
26/ 2 Cal. Code of Regs. §18700.1(b)(2).
27/ Gov. Code §87103.
28/ Gov. Code §82030(b)(2); 2 Cal. Code of Regs. §18702.1(c)(1).
29/ Gov. Code §87103(a).
30/ Gov. Code §82034.
31/ Gov. Code §82005.
32/ Gov. Code §87103(b).
33/ Gov. Code §82033.
34/ 2 Cal. Code of Regs. §18233.
35/ Gov. Code §87103(c).
36/ Gov. Code §82030(a).
37/ Gov. Code §82030(b).
38/ Gov. Code §87103(e).
39/ Gov. Code §§ 82028 and 82030(a).
40/ 2 Cal. Code of Regs. §18726.2.
41/ Gov. Code §§ 87103(d) and 82005.
42/ Gov. Code §87103.
43/ In re Thorner (1975) 1 FPPC Ops. 198; see, Witt v. Morrow (1977) 70 Cal. App. 3d 817; Downey Cares v. Downey Community Development Commission (1987) 196 Cal. App. 3d 983.
44/ Gov. Code §87103.
45/ 2 Cal. Code of Regs. §§ 18702 through 18702.6.
46/ 2 Cal. Code of Regs. §18702.1(a)(4).
47/ Witt v. Morrow (1977) 70 Cal. App. 3d 817.
48/ 2 Cal. Code of Regs. §18702.2.
49/ 2 Cal. Code of Regs. §18702.2(g).
50/ 2 Cal. Code of Regs. §18702.2(a).
51/ 2 Cal. Code of Regs. §§18702.5 and 18702.6.
52/ 2 Cal. Code of Regs. §18702.3.
53/ 2 Cal. Code of Regs. §18702.4.
54/ 2 Cal. Code of Regs. §18702(b).
55/ 2 Cal. Code of Regs. §18702.1(d).
56/ 2 Cal. Code of Regs. §18702.1(a)(1) and (2).
57/ 2 Cal. Code of Regs. §18702.1(b).
58/ 2 Cal. Code of Regs. §18702.1(a)(3).
59/ 2 Cal. Code of Regs. §18702.1(a)(3).
60/ Gov. Code §87103; 2 Cal. Code of Regs. §18703; In re Legan (1985) 9 FPPC Ops. 1.
61/ 2 Cal. Code of Regs § 18703.1
62/ Gov. Code §87100; see, In re Biondo (1975) 1 FPPC Ops. 54.
63/ 2 Cal. Code of Regs. §18700(b)(5).
64/ Gov. Code §91003(b); see Downey Cares v. Downey Community Development Commission (1987) 196 Cal. App. 3d 983.
65/ Gov. Code §87101.
66/ Affordable Housing Alliance v. Feinstein (1986) 179 Cal. App. 3d 484; In re Hudson (1978) 4 FPPC Ops. 13
67/ 2 Cal. Code of Regs. §18701; In re Brown (1978) 4 FPPC Ops. 19.

68/ Gov. Code § 87101; 2 Cal. Code of Regs. §18701(c).
69/ In re Hudson (1978) 4 FPPC Ops. 13.
70/ 2 Cal. Code of Regs. §18701(b)(4).
71/ Gov. Code §83116.
72/ Gov. Code §§ 91005(b) and 91005.5.
73/ Gov. Code §§ 91000 and 91002.
74/ Gov. Code §91000(b).
75/ Gov. Code §91013 also imposes late filing fees on officials who fail to file timely statements of economic interests.
76/ Gov. Code §87102.
77/ Gov. Code §83114(b); 2 Cal. Code of Regs. §18329.
78/ Gov. Code §83114(a); 2 Cal. Code of Regs. §§ 18320-18326.
79/ Gov. Code §83114(b).
80/ Gov. Code §83114; 2 Cal. Code of Regs. §§ 18320 and 18329.
81/ Gov. Code §§ 6250-6265.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GEORGE DEUKMEJIAN, Governor

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January 7, 1991

TO: Commissioners and Staff

FROM: Ralph Faust, Chief Counsel
Dorothy Dickey, Deputy Chief Counsel DD

SUBJECT: New Conflict of Interest Requirements

There are a number of new conflict of interest requirements that went into effect on January 1, 1991 that affect Commissioners and staff. The Fair Political Practices Commission (FPPC) has provided general information regarding those provisions. (Attachments 1 and 2.) We have listed below some of the requirements that may affect Commissioners and staff. This listing is not intended to be exhaustive or definitive. The new requirements are complicated and the FPPC will ultimately need to provide guidance on how to interpret those provisions. It is not apparent when that guidance will be provided, so we are providing this general summary to you now to alert you to some of the most important subject areas that have been amended. If you have particular concerns about how these requirements will affect you, we recommend that you direct specific questions to us or to the Fair Political Practices Commission.

1. The Milton Marks Postgovernment Employment Act (Government Code section 87406, SB 1738, Ch. 84, AB 4143, Ch. 1075) prohibits officers and designated employees who leave state office or employment on or after January 7, 1991, from communicating with or appearing before any officer or employee of the agency for which they previously worked, for a period of one year after leaving state employment or office, where the communication is made on behalf of a client for compensation and the purpose of the communication is to influence "any administrative action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract . . . ."

   The statute includes various exceptions, only one of which appears to be potentially applicable. It provides that a state officer or employee who leaves a state agency to go to another "state agency, board or commission" is not subject to the prohibition as long as the communication is on behalf of that agency.

   (The statute would not affect existing Political Reform Act provisions which place lifetime restrictions on former employees

and officers. Government Code section 87400 et seq continue to prohibit former officers and employees from representing anyone for compensation, before the Commission, a court or another agency, if the proceeding is one in which the former officer or employee participated while serving as an officer or employee.)

2. New section 87407 provides that a state administrative official (which includes commissioners and employees) shall not "make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning prospective employment."

3. The Ethics in Government Act of 1990 includes new requirements and prohibitions concerning gifts and travel:

   - Commissioners and employees are generally prohibited from accepting an honorarium for giving a speech, publishing an article or attending a conference if the commissioner or employee "would be required to report the receipt of income or gifts from that source on his or her statement of economic interest . . . ." (Govt. Code sections 89502(c) and 89503.) The Act provides a limited exception for "earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade or profession . . . unless the sole or predominant activity of the business, trade or profession is making speeches . . . ."

     (The question of whether income, gifts or honoraria must be reported depends on a number of factors. Those factors include whether the amount of income is $250 or more, whether a gift is valued at $50 or more, whether an honorarium is $50 or more, the source of the income, gift, or honorarium, and for employees only, whether the source does business in the coastal zone. Attachment 3 includes the FPPC's summaries of the criteria for reporting income, gifts and honoraria.)

   - No commissioner or employee shall accept gifts from a single source during a calendar year with a total value of more than $250 if the commissioner or employee would be required to report the gifts on his or her statement of economic interests. Exceptions are provided for wedding or other gifts that are exchanged on holidays and similar occasions, and for travel that is allowed under section 89506. (Govt. Code section 89505.) (See note on gifts in immediately preceding paragraph.)

   - Travel payments, advances and reimbursements are allowed if

specific criteria are met. (Govt. Code section 89506.)[1/] Those criteria include:

- the travel must be reasonably related to either a legislative or governmental purpose

  or

- an issue of state, national, or international public policy

  and it is either:

- in connection with a speech given by the commissioner or employee, and lodging and subsistence expenses are limited to the day before, day of, and day following this speech, and travel is within the United States

  or

- travel is provided by a government, governmental agency, educational institution or non profit, tax exempt charitable or religious institution.

1/ There is some uncertainty as to the effect of the new provisions on other existing provisions of the Political Reform Act relating to the reporting and disqualification requirements applicable in the case of travel payments. Should questions arise, we recommend that individuals consult the Commission's legal staff or the Fair Political Practices Commission.

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ATTACHMENT 1

1991 LEGISLATIVE CHANGES

Effective January 1, 1991, new prohibitions and limitations will be imposed on gifts and honoraria received by elected state and local officials, state agency officials, members of state boards and commissions, and certain employees of state agencies.

WARNING: These new prohibitions and limitations do not affect the requirements for disclosing gifts and honoraria received.

NEW GIFT LIMIT:

Elected State Officers may not accept gifts with a value of more than $250 in a calendar year from a single source.

Local Elected Officers may not accept gifts with a value of more than $1,000 in a calendar year from a single source.

Members of State Boards and Commissions, State Agency Officials, and Designated State Employees may not accept gifts with a value of more than $250 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

This prohibition does not apply to a part-time member of the governing board of a public institution of higher education, unless the member is also an elected official.

EXCEPTIONS TO NEW GIFT LIMIT:

The following are not prohibited or limited under the new gift provisions:

- The items listed on page 23 "Exceptions From Disclosure."
- Payments, advances, or reimbursements for travel and related lodging and subsistence as described on the next page.
- Wedding gifts.

NOTE: Certain payments for travel and all wedding gifts received by elected state officers and certain state board and commission members and state agency officials and employees are subject to the lobbyist gift prohibition described below.

GIFTS FROM LOBBYISTS:

Elected State Officers and Certain State Board and Commission Members and State Agency Officials and Employees are prohibited from accepting a gift or gifts aggregating more than $10 in a month from a lobbyist or lobbying firm registered with the Secretary of State.

NEW HONORARIA PROHIBITION:

Elected State Officers may not accept any honorarium. "Honorarium" means, with the exceptions noted below, any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering.

Local Elected Officers may not accept an honorarium for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering, or any gifts from any single source, which is in excess of $1,000 in a calendar year.

Members of State Boards and Commissions, State Agency Officials, and Designated State Employees may not accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts om that source on his or her statement of economic interests.

This prohibition does not apply to any part-time member of the governing board of any public institution of higher education unless the member is also an elected official.

*Excerpt from 1990-91 Statement of Economic Interests Manual - Fair Political Practices Commission

EXCEPTIONS TO NEW HONORARIA PROHIBITION:

1) "Honorarium" does not include earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches.

2) The new honoraria prohibition does not apply to payments, advances and reimbursements for travel and related lodging and subsistence, as described below.

3) The new honoraria prohibition does not apply to any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the Controller for donation to General Fund, without being claimed as a deduction from income for tax purposes.

PAYMENTS FOR TRAVEL:

With the following exceptions, gifts of travel are subject to the new limits described above:

Exceptions: A payment, advance, or reimbursement for travel, including actual transportation and related lodging and subsistence, which is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, is not prohibited or limited, if any of the following apply:

(1) The travel is in connection with a speech given by an elected officer, member of a state board or commission, or designated employee of a state agency, the lodging and subsistence expenses are limited to the day immediately preceding the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization which has exempt status under Section 501(c) (3) of the Internal Revenue Code.

(3) The travel costs are paid from campaign funds.

(4) The travel is provided by the agency of the elected officer, member of a state board or commission, or designated employee.

(5) The travel is reasonably necessary in connection with a bona fide business, trade, or profession and satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 174 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(6) The travel is excluded from the definition of a gift by any other provision of the Political Reform Act.

IMPORTANT

Public officials are, under certain circumstances, required to disqualify themselves from making, participating in, or attempting to influence governmental decisions which will affect any of their financial interests, not just those which they are required to disclose on a statement of economic interests. The Fair Political Practices Commission's Guide to the Political Reform Act: California's Conflict of Interest Law for Public Officials explains what a conflict of interest is, and when disqualification is required by law.

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the old system. The old system was reinstituted.

This is not the forum to debate the merits of the judge's decision. That will be heard by a higher court -- probably in another era. What is sad is that it took so long; it was decided at the last minute; and we were unable to secure for the people an immediate review or at least stay the decision until an appellate review could be had.

The next concern is that the opinion of the court contains statements involving the court's view of the defects in the legislative scheme. Similar provisions exist in a proposition now pending before the voters. Should that proposition be adopted there will be another go-around of litigation.

I agree that there are many other meritorious matters seeking priority and advancement in the judicial system. However, those subjects which affect all the electoral process immediately and the political future of California for years to come should receive expedited consideration. I do not believe that an expedited matter after the election is of any help.

John H. Larson

John H. Larson
Chairman

LEGISLATIVE UPDATE

New ethics rules go into effect in January for elected state officers and designated employees of the Legislature and state agencies. The new rules result from passage of the constitutional amendments in Proposition 112 on the June 1990 ballot and enactment of legislation during the past year. Additional ethics rules would result with passage of Proposition 131 on the 1990 November ballot.

The state Constitution (Article IV, Section 4 and Article V, Section 14) now directs the Legislature to prohibit all elected state officers from accepting honoraria; to ban or strictly limit the acceptance of gifts that might create a conflict of interest; and to restrict the lobbying activities and sources of income of elected state officers.

*Excerpt from Fair Political Practices Bulletin, November 1990

The Legislature enacted the bill, SB 1738 (Ch. 84, Stats. 1990), to impose gift limits; ban honoraria; establish new conflict-of-interest rules for legislators and other elected state officers; and restrict the ability of legislators and other state public officials to use the "revolving door" to lobby their former agencies. The Legislature also enacted the bill, AB 4143 (Ch. 1075, Stats. 1990) to add other ethics rules and to amend some of the changes made earlier. The following highlights the new ethics rules:

Gifts and Honoraria

Existing law prohibits elected officeholders from accepting gifts or honoraria for any speech, article, or published work on a subject relating to the governmental process in excess of $1,000 per calendar year from any single source. The new law:

—Bans legislators, the governor and other elected officials from receiving any honoraria.

—Bans members of state boards and commissions and designated employees of state agencies from receiving honoraria from a source that could give rise to a conflict of interest.

—Prohibits legislators, the governor and other elected state officers from accepting gifts with an aggregate value of more than $250 from a single source in a calendar year.

—Prohibits members of state boards and commissions and designated employees of state agencies from accepting gifts with an aggregate value of more than $250 from a source that could give rise to a conflict of interest. However, the gift limit does not apply to part-time members of the governing board of any public institution of higher education.

—Prohibits local elected officers from accepting honoraria and gifts in excess of $1,000 from any single source in any calendar year, except reimbursement for travel and subsistence.

The new law excludes from the gift limits wedding presents and gifts of similar value exchanged between public officials and individuals, other than a lobbyist, on birthdays, holidays and similar occasions.

The new law permits payments, advances, or reimbursements of actual travel expenses and related lodging and subsistence costs which are reasonably related to a legislative or governmental purpose, or to an issue of state, national or international public policy under specified conditions. The law also amends the requirements for disclosure of income to allow legislators make a distinction between gifts and payments made as advances or reimbursements for travel.

Ethics Orientation

The new law requires legislators, designated employees of the Legislature, and lobbyists to participate in ethics orientation courses conducted by the appropriate legislative ethics committees.

Conflicts of Interest

The law establishes new conflict-of-interest rules for legislators that would be subject to administrative penalties imposed by the Commission. Legislators previously were exempted from the penalties of the Political Reform Act. The law:

—Specifies which governmental decisions and other actions of a legislator are subject to the conflict-of-interest provisions.

—Defines special interest legislation as "nongeneral legislation," and specifies when a legislator has reason to know that legislation is nongeneral.

—Requires state elected officers to avoid participating in decisions that would have a direct and significant financial impact on a lobbyist employer which differs from the general public.

Revolving Door

Expanding existing revolving door restrictions, the new law:

—Prohibits Assembly and Senate members from lobbying the Legislature for a year after leaving office. Other elected state officers are prohibited from lobbying their former state administrative agency for one year after leaving office.

—Prohibits members of state boards and commissions and all designated employees from lobbying their former employing administrative agency for one year. However, a state public official may lobby his or her former agency on behalf of another state agency. The restrictions for designated employees of state agencies does not take effect until January 7, 1991.

—Prohibits an elected state officer, state administrative official, or designated employee of the Legislature from using his or her official position to negotiate or arrange prospective employment.

Penalties

Over objections of the Commission, a separate penalty scheme was created for violations of the ethics provisions. Currently, violations of the Political Reform Act are subject to: 1) administrative action by the Commission, 2) civil action by any person for an amount of up to three times the amount of the violation, and 3) misdemeanor penalties in action brought by a district attorney. The new ethics law

eliminates criminal penalties for violations of its provisions. The law also limits penalties for violations of the restrictions on gifts, honoraria and personal use of campaign funds to administrative and civil actions brought only by the Commission.

Officeholder Expenses

The new ethics law permits a candidate who is an incumbent elected officer to use personal funds for officeholder expenditures (as opposed to campaign expenditures) without first depositing those funds in a campaign bank account. Additionally, it permits an incumbent elected officer to be reimbursed from the campaign bank account for use of his or her personal funds for officeholder expenditures.

Under Commission Regulation 18526.1, reimbursement must be made within 45 calendar days after the expenditure is paid. If reimbursement is not made within the time permitted, the expenditure must be reported on the campaign statement as a non-monetary contribution received on the 45th day after the expenditure is paid. The law extends the reimbursement period to 90 days after the expenditure, in the case of a cash expenditure and extends the reimbursement period to 90 days from the end of the appropriate billing period in the case of an expenditure charged to a credit card or charge account.

Earned Income

Under the state constitutional amendments, no member of the Legislature or elected state officer, including the insurance commissioner, may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined in the Political Reform Act of 1974, or from a person who during the previous 12 months has been under a contract with the Legislature or state agency.

The new law defines "earned income" as wages, salaries, professional services, and other amounts received or promised to be received as compensation for personal services rendered. Earned income does not include: 1) any amount paid by a pension, profit sharing or stock bonus plan, 2) community property interest in the income of a spouse, and 3) any income received from stocks, investments, property, or other investments, or from retail or wholesale sales.

Personal Use

The ethics law amends newly imposed restrictions on the personal use of campaign funds in the Political Reform Act. The new law increases from $100 to

ATTACHMENT 3

Information for SCHEDULE D: Income

(Other Than Loans And Gifts)

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

Important: Under the Political Reform Act, reportable income is different from income for tax purposes.

You must report your gross income and your community property interest in your spouse's gross income. Gross income is the total amount of income before deducting expenses, losses or taxes. Income aggregating $250 or more received from any source which is covered by your disclosure category and is located in or doing business in your jurisdiction must be disclosed.

A business entity or source of income is located in or doing business in the jurisdiction if it or a parent, subsidiary, or a related business entity:

- Manufactures, distributes or sells products or services on a regular basis in the jurisdiction.
- Plans to do business in the jurisdiction.
- Has done business in the jurisdiction within the previous two years.
- Has an interest in real property in the jurisdiction.
- Has an office in the jurisdiction.

Reportable income includes:

- Commission income. (See definition and explanation on page 5 and Schedule H-1, page 21.)
- Salary/wages, per diem, reimbursement for expenses (see exclusions below).
- Income from a business entity and your pro rata share of the total gross payments received by a business entity (including rental property) or a trust in which you or your spouse had an ownership interest of 10% or more.
- Your community property interest *(50%)* in your spouse's income.
- Proceeds from any sale, including the sale of a house or car. (The total sale price is reportable regardless of any obligation you might have to pay on loans secured by the property.)
- Interest (see exclusions below).
- Rental income.
- Prizes or awards not disclosed as gifts.
- Forgiveness of a loan or other indebtedness.
- Loan payments received by you.
- Honoraria not reported on Schedule F.*

You are not required to disclose the following types of income:

- Salary or reimbursements for expenses and per diem from a federal, state or local government agency.
- Reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization.
- Campaign contributions.
- A devise or inheritance. ***(However, inheritance of an investment or an interest in real property may be required to be reported on Schedule A or B.)***
- Dividends, interest or other return on a security which is registered with the Securities and Exchange Commission.
- Payments received under an insurance policy.
- Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency.
- Income of dependent children.
- Alimony or child support payments.
- Redemption of a mutual fund.
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).
- Proceeds from the sale of securities or commodities futures sold on a stock or commodity exchange if the purchaser is not known.
- Income from assets acquired by a blind trust. (For a discussion of blind trusts, see Appendix I, page 24.)

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*A filer who elects not to report an honorarium as a gift on Schedule F must report the honorarium as income on Schedule D.

*Excerpt from 1990-91 Statement of Economic Interests, Fair Political Practices Commission (for employees)

Information for SCHEDULE F: Income - Gifts

IMPORTANT

Effective January 1, 1991, new prohibitions and limitations will be imposed on gifts and honoraria received by elected state and local officials, state agency officials, members of state boards and commissions, and certain employees of state agencies. These new provisions are discussed at the front of this manual in the section entitled "1991 Legislative Changes."

WARNING: These new prohibitions and limitations do not affect the requirements for disclosing gifts and honoraria received.

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.
See Appendix III, pg. 26, for information on reporting honoraria.

"Gift" means anything of value, whether tangible or intangible, for which equal or greater value is not paid. You must disclose gifts received during the reporting period aggregating $50 or more from any source covered by your disclosure category, without regard to the location *(inside or outside your jurisdiction)* of the donor. (Any number of gifts from one person, the values of which add up to $50 during the calendar year, must be disclosed.)

It is the acceptance of the gift, and not the ultimate use to which it is put, that imposes a reporting obligation on you. Thus, you must report a gift even if you never make use of it or if you give it away to another person. (Note: There are special rules for reporting gifts of free passes or tickets. (Commission Regulation 18726.3).) If the exact amount of the gift is not known, you must make a good faith estimate of the item's fair market value. Listing the value of the gift as "over $50" is not adequate disclosure. Gifts are reportable without regard to where the donor is located.

IMPORTANT: If you receive a gift through an intermediary, you must disclose the name, address and business activity of both the donor and the intermediary.

EXCEPTIONS FROM DISCLOSURE

You are *not* required to disclose the following:

- Gifts of food, drink or occasional lodging provided in an individual's home.
- Gifts approximately equal in value exchanged between you and an individual, other than a lobbyist, on holidays, birthdays, or similar occasions.
- Gifts of informational material, such as books, pamphlets, reports, calendars or periodicals.
- Gifts from your spouse, child , parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, provided that a gift from any such person must be disclosed if the person is acting as an agent or intermediary for a reportable source of income.
- A bequest or inheritance. (However, an inheritance of an investment or an interest in real property may be required to be reported on Schedule A or B.)
- Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- Personalized plaques and trophies with an individual value of less than $250.
- Campaign contributions.
- Food, beverage, and necessary accommodations received directly in connection with an event at which you gave a speech, participated in a panel, or provided a similar service.

Information for SCHEDULE G: Business Positions

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF POSITIONS YOU MUST DISCLOSE.

- You must report the name of any business entity covered by your disclosure category for which you are a director, officer, partner, trustee, employee or hold any position of management.
- Positions held in non-profit or charitable organizations or campaign committees are not reportable.

Assume that your disclosure category requires you to disclose business positions in entities which are contractors, land developers or manufacturers of equipment used by your agency. You have been a partner in ABC Land Developers during the entire reporting period. You would report that position as follows:

NAME OF BUSINESS ENTITY	ADDRESS OF ENTITY
ABC Land Developers	5744 Tenth Street, Little Town
NATURE OF BUSINESS ACTIVITY, IF ANY	YOUR JOB TITLE OR POSITION
Land Developer	Partner
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☒ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

Information for SCHEDULE H-1: Commission Income

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

Brokers, agents or salespersons are required to disclose the names of sources of commission income if their pro rata share of the gross commission income amounts to $10,000 or more from a single source. ***No ownership interest in a business entity is necessary to require disclosure or disqualification under this provision.*** "Commission income" means gross payments received as a result of services rendered as a broker, agent or salesperson. Persons who must report commission income include: insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers and retail or wholesale salespersons. The "source" of commission income may be a client or customer or it may be a broker, a company or other business entity through which the goods or services were sold or it may be both. (See example below.) NOTE: If you have reported yourself or your employer as a source of commission income on Schedule D, you are not required to itemize yourself or your employer as a source of income on Schedule H-1.

During the reporting period, did you or your spouse receive "commission income" for services rendered as a broker, agent or salesperson?

NO — You are not required to complete Schedule H-1.

YES — You must provide the name of each individual or entity which:
- Is covered by your disclosure category; *and*
- Is located in, or doing business in, your jurisdiction; *and*
- Was a source of income, provided that your pro rata share of such receipts was $10,000 or more.

EXAMPLE, SCHEDULE H-1

Assume that:

- You are an agent for Smith and Jones Insurance Company. You sold a Businessmen's Insurance Company insurance policy to XYZ Company. You received commission income of $15,000 from the transaction.
- Your spouse is a real estate broker for Goldwater Realty and received a commission of $20,000 from the Grand Company.
- All four entities are covered by your disclosure category.

You would:

- Report both XYZ Company and Businessmen's Insurance Company as sources of commission income, each was a source of $10,000 or more. Smith and Jones is disclosed on Schedule D as a source of comm income, and on Schedule H-1 as the business entity through which you received the income.
- Report Grand Company, your spouse's client, because your community property share (50%) of the gro receipts amounted to $10,000 and would meet the reporting threshold. You would also report your community property share of your spouse's income from Goldwater Realty on Schedule D as a source of income.

Schedule H-1 would be completed as follows:

NAME OF BUSINESS ENTITY Smith and Jones Insurance Company
NAMES OF SOURCES OF INCOME XYZ Company
Businessmen's Insurance Company
NAME OF BUSINESS ENTITY Goldwater Realty
NAMES OF SOURCES OF INCOME Grand Company

Information for SCHEDULES H-2 AND H-3:

Income And Loans To Business Entities Or Trusts And Income From Rental Property

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

If, during the reporting period, you and your spouse owned an aggregate interest of 10% or more in any business entity (including rental property) or a trust, you must provide the name of each individual or entity which:

- Is covered by your disclosure category; and
- Is located in, or is doing business in, your jurisdiction; and
- Was a source of income, including loans received or outstanding, to the business entity or trust, provided that your pro rata share of such payments or receipts was $10,000 or more.
- Made rent payments, provided that your pro rata share of such receipts was $10,000 or more.

IMPORTANT: The requirement to report sources of income to a business entity or trust is determined by the location of the source of loan or income--not by the location of the business entity or trust which received the loan or income or by the location of the rental property.

If the business entity in which you have a 10% or greater interest is covered by your disclosure category and is located in or doing business in your jurisdiction, it must also be reported on Schedule A, and you may be required to complete Schedules C-1 and C-2. Your pro rata share of the gross income to the business entity must be reported on Schedule D.

If the rental property in which you have a 10% or greater interest is covered by your disclosure category and is located in your jurisdiction, it must be reported on Schedule B. Your pro rata share of the gross rental income from the property must be reported on Schedule D.

FPPC Regulation 18740 contains information regarding the procedure for obtaining an exemption from the disclosure requirement of clients' names which are legally recognized as privileged under California law. You may obtain a copy of Regulation 18740 by contacting the Fair Political Practices Commission.

NOTE: If your pro rata share of income or a loan to a business entity or trust is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income or loan, even though you are not required to report it.

APPENDIX III
Honoraria

IMPORTANT

Effective January 1, 1991, new prohibitions and limitations will be imposed on gifts and honoraria received by elected state and local officials, state agency officials, members of state boards and commissions, and certain employees of state agencies. These new provisions are discussed at the front of this manual in the section entitled "1991 Legislative Changes."

WARNING: These new prohibitions and limitations do not affect the requirements for disclosing gifts and honoraria received.

An honorarium is a payment received for speaking at an event, participating in a panel or seminar or providing a similar service. An honorarium is reportable if it is received from a source of income of the type described in your disclosure category.

Payment or reimbursement for travel: Payment or reimbursement for travel in connection with an event at which you gave a speech, participated in a panel or seminar or performed a similar service is reportable as an honorarium if the travel was outside California. Payment or reimbursement for travel in connection with such an event within California is not reportable.

Important: Payment or reimbursement for all other travel (when it is not in connection with an event at which you gave a speech, participated in a panel or seminar or performed a similar service) must be reported as a gift or as income unless it is from a state, local or federal government agency or from a bona fide educational or charitable organization.

An honorarium from a reportable source must be disclosed on Schedule F (Gifts) or on Schedule D (Income):

- The payment is a gift if you did not provide services of equal or greater value than the payment received. Gifts aggregating $50 or more from a single source during the reporting period must be reported on Schedule F.
- The payment is income if you provided services of equal or greater value than the payment received. Income aggregating $250 or more from a single source during the period must be reported on Schedule D. Regulation 18728 provides that a person who claims that an honorarium is not a gift shall have the burden of proving that the consideration provided was of equal or greater value.

Reportable honoraria include:

- Actual payments received
- Any extra benefits received which were not provided directly in connection with the event
- Reimbursement or payment for travel outside California

You are not required to report the following benefits provided directly in connection with an event at which you gave a speech, participated in a panel or seminar or provided a similar service:

- Free admission
- Accommodations directly in connection with the event
- Food and beverage at the event
- Similar nominal benefits
- Reimbursement or advance for travel within California

An employee of a state agency who wishes to accept an honorarium from a lobbyist who is registered to influence his or her agency should consult FPPC Regulation 18623.

California Fair Political Practices Commission

July 9, 1990

Peter M. Douglas
Executive Director
California Coastal Commission
631 Howard Street, Fourth Floor
San Francisco, CA 94105

Re: Your Request for Informal Assistance
Our File No. I-90-128A

Dear Mr. Douglas:

This is in response to your request for advice regarding the responsibilities of the members and staff of the California Coastal Commission (the "Coastal Commission") under the Political Reform Act (the "Act").[1] We have previously provided specific advice regarding the filing obligations of Coastal Commission Staff Attorney Dorothy Dickey. Since the balance of your questions seek general guidance in various situations, we are treating your request as one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).[2]

QUESTIONS

1. If the members or staff (the "staff members") of the Coastal Commission attend any of the events listed below, and if a local, state, or federal government agency provides the funding for the travel, meals, and lodging, and for the seminar or

---

[1] Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

[2] Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

workshop if any, would such funding constitute "income" or "gifts" to the staff members of the Coastal Commission:

(a) Working meetings?
(b) Conferences, training sessions, workshops, field trips?
(c) Site review?
(d) General review, reporting, and enforcement activities?

2. What are the disclosure and disqualification requirements under the above described circumstances?

3. How does Regulation 18728 apply to conferences, workshops, etc?

4. How does In re Stone (1977) 3 FPPC Ops. 52 apply to travel, etc. by the staff members of the Coastal Commission?

5. What are the consequences if a staff member of the Coastal Commission becomes aware that the funds provided to the staff member, or used in the sponsorship of an event sponsored by a governmental agency and attended by the staff member, were provided by a private person or entity?

CONCLUSIONS

1. The expenses of the travel, meals, and lodging, and the seminar or workshop, if any, may be deemed "income" or "gifts" to the staff member of the Coastal Commission depending on the circumstances.

2. If the payment for travel, meals, and lodging, and the fees for the seminar or workshop, if any, from a local, state, or federal government agency were deemed income, the staff member of the Coastal Commission does not incur any disclosure or disqualification obligations. If the payment for travel, meals, and lodging, and the fees for the seminar or workshop are deemed a gift, it may give rise to disclosure or disqualification obligations.

3. Regulation 18728 applies when the staff member of the Coastal Commission provides a certain type of service at a structured event, such as giving a speech or presentation either individually or as part of a panel at a conference, workshop, or other event. Under these circumstances the free admission, food, and similar nominal benefits provided to the staff member are not payments and need not be reported. In addition the necessary accommodations and intrastate travel provided directly in connection with the event are not payments and need not be reported.

4. The Stone Opinion provides a procedure whereby a gift used by a public official is deemed to be a gift to the agency and not to the official who utilizes the gift, if the procedure outlined in the Opinion is followed.

5. If a staff member of the Coastal Commission discovers that the funds for the sponsorship of an event sponsored by a governmental agency, or the funds provided to the staff member, were provided by a private person or entity, the staff member may be deemed to have received the funds directly from the private person or entity if the private person or entity earmarked the funds for the use of the staff member.

FACTS

Members or staff of the Coastal Commission attend informational meetings, training conferences, and other events. You are concerned about the consequences of receiving funds from other agencies to attend these events. You have described the events as follows:

> Working meetings--staff attendance at working meetings involving particular projects or issues. These meetings are often held in cities other than the employee's headquarters, necessitating that travel and per diem be provided.
>
> Conferences, training sessions, workshops, field trips--training or informational sessions relating directly to [Coastal] Commission responsibilities. Employee travel and per diem may be provided, and fees may be paid or waived by other agencies. In some instances, an outside agency may sponsor a conference or other proceeding, paying for facilities, materials, and/or consultants.
>
> Site visits--visits by [Coastal] Commission staff to evaluate proposed project sites. The agency providing the funds may be the project applicant or may have concerns about, or an interest in, the project. Also, the agency may have concurrent authority to review a project.
>
> For example, another state agency would provide a sum for the travel expenses of a [Coastal] Commission employee to visit a site where that agency seeks to undertake a project. The funding would be provided directly to the employee.
>
> General review, reporting, and enforcement activities--[Coastal] Commission staff review of large development projects or local coastal programs, monitoring and enforcement, or review or

preparation of reports regarding specific issues, such as geologic stability, oil spills, or fisheries impacts. Funding or other support may be provided for staff or staff activities. Travel and per diem may be provided.

ANALYSIS

The members and staff of the Coastal Commission are public officials. (Section 82048.) Accordingly, they are subject to the reporting and disqualification requirements contained in the Act.

Section 87100 prohibits any public official from making, participating in, or using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family,[3] or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars ($1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars ($1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value

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[3] An official's "immediate family" includes his spouse and dependent children. (Section 82029.)

provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Sections 87103 (a) - (e).

1. **WHETHER PAYMENTS RECEIVED BY A STAFF MEMBER CONSTITUTE INCOME OR GIFTS**

Pursuant to Section 87200, members of the Coastal Commission must report their economic interests as required by Section 87206 and 87207. Pursuant to Section 87302 employees of the Coastal Commission, who must report their economic interests, disclose the information required by Sections 87206 and 87207 as modified by the conflict-of-interest code adopted by the Coastal Commission. Section 87207 requires disclosure of all sources of income in excess of $250 and sources of gifts in excess of $50.

Section 82030 defines income as:

> "Income" means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, ... reimbursement for expenses, per diem....

Income excludes:

> Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic, or charitable organization.

Section 82030(b)(2).

Gifts are defined in Section 82028 as follows:

> [A]ny payment to the extant that consideration of equal or greater value is not received ....

Section 82028 excludes from the definition of a gift:

> Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

Section 82028(b)(1).

Thus, when the staff members of the Coastal Commission receive travel funding, or payment or waiver of fees or expenses in connection with the above mentioned events, they may be deemed to

have received "income" or "gifts" from the entity that provides such funding, or payment or waiver of fees or expenses.

If the staff members of the Coastal Commission provide full and adequate consideration for the travel funding and the payment or waiver of fees or expenses, they will be deemed to have received income. If full and adequate consideration is not provided, the staff members of the Coastal Commission will be deemed to have received a gift.

Whether staff and members of the Coastal Commission have provided full and adequate consideration in connection with an event depends on the circumstances of that event.

Working meetings: When the attendance of the staff members of the Coastal Commission is required at working meetings involving particular projects or issues, it would appear the staff members provide full and adequate consideration for the event. Any payment they receive in this connection should therefore be deemed income. However, it cannot be conclusively presumed that every working meeting will cause the payment of travel expenses and payment or waiver of fees or expenses to be deemed income. Whether such payments are deemed income or gifts will depend on the facts and circumstances of each case.

Conferences, training sessions, workshops, field trips: If training or informational sessions relating directly to the Coastal Commission's responsibilities is provided to the staff member of the Coastal Commission, it would appear that such informational sessions are gifts to the staff member. It does not appear that the staff member provides full and adequate consideration for such training or informational sessions, unless the staff member provides rather than receives information at such training or informational session.

Site visits: If the staff member of the Coastal Commission visits a proposed project site and receives payment for travel expenses from some entity which has an interest in the project site, it would appear that the staff member of the Coastal Commission has received a gift. Under such circumstances, the staff member's visit to the site appears to be independent of any payment that may or may not be received from the entity; the staff member is performing his or her official duties in visiting the site and does not appear to provide full and adequate consideration for any payment he or she receives. If the staff member provides full and adequate consideration, the staff member would appear to have received income.

General review, reporting, and enforcement activities: As in the discussion regarding site visits, it would appear that in visiting a location for general purposes, the staff member receives a gift if he or she receives payment for travel expenses including per diem for such visit. The staff member's visit appears to be independent of any payment that may or may not be

received from the entity; the staff member is performing his or her official duties in visiting the site and does not appear to provide full and adequate consideration for any payment he or she receives. If the staff member provides full and adequate consideration, the staff member would appear to have received income.

In the discussion above, we have concluded that the staff member of the Coastal Commission who receives payment for travel expenses and payment or waiver of fees or expenses receives either a gift or income depending on the circumstances. If the staff member provides full and adequate consideration, then the staff member will be deemed to have received income, otherwise the staff member will be deemed to have received a gift. The disclosure and disqualification obligations will vary depending on this characterization of the payment received by the staff member of the Coastal Commission, and the identity of the entity which has provided that payment to the staff member.

2. DISCLOSURE AND DISQUALIFICATION REQUIREMENTS

Payment received by the staff member is deemed income: If you conclude that the payment received by the staff member is income, then, if the entity that provided the payment is a federal, state, or local governmental agency, the payment is not deemed to be income within the meaning of the Act. Section 82030(b)(2) excludes from the definition of income "reimbursement for expenses or per diem received from a state, local, or federal government agency...." Accordingly, receipt of this payment for travel expenses, and payment or waiver of fees or expenses from a state, local, or federal government agency will not be deemed to be income for purposes of the Act, and the staff member of the Coastal Commission does not incur any disclosure or disqualification obligations because of the receipt of such payment.

Payment received by the staff member is a gift: If the payment by the staff member is deemed to be a gift, the staff member may be required to disclose such gift pursuant to Section 87207 if the gift is in excess of $50. Section 82028(b)(1) excludes from the definition of gift "[i]nformational material such as books, reports, pamphlets, calendars, or periodicals." Section 82028(b)(1) specifically adds, however, that payment for travel or reimbursement for any expenses shall not be deemed to be informational material.

Staff members of the Coastal Commission who attend such events will be required to disclose the payment for travel expenses as a gift. The informational materials that the staff member receives at such event, including the materials, training, and information itself are not deemed to be gifts within the meaning of Section 82028. (See, Kolodney Advice Letter, No. A-87-182; Newman Advice Letter, No. A-84-187; copies enclosed.)

Disqualification

As noted above, Sections 87100 and 87103(e) provide that a public official is disqualified from participating in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the donor's economic interests including any donor of a gift of $250 or more in the preceding 12 months.

Foreseeability

The effects of a decision are reasonably foreseeable if there is a substantial likelihood that they will occur. To be foreseeable, the effects of a decision must be more than a mere possibility; however certainty is not required. (Downey Cares v. Downey Community Development Com. (1987) 196 Cal. App. 3d 983, 989-991; Witt v. Morrow (1977) 70 Cal. App. 3d 817, 822; In re Thorner (1975) 1 FPPC Ops. 198, copy enclosed.) The Act seeks to prevent more than actual conflicts of interest; it seeks to prevent even the appearance of a possible conflict of interest. (Witt v. Morrow, supra at 823.)

Materiality

Regulation 18702 sets forth the guidelines for determining whether an official's economic interest in a decision is "materially" affected as required by Section 87103. If the official's financial interest is directly involved in the decision, then Regulation 18702.1 (copy enclosed) applies to determine materiality. On the other hand, if the official's financial interest is indirectly affected by the decision, then Regulations 18702.2 to 18702.6 (copies enclosed) would apply to determine whether the effect of the decision is material. In particular, Regulation 18702.5 applies to determine whether the effect of a decision is material as to a nonprofit entity such as a government agency.

Public Generally

Even if the reasonably foreseeable financial effect of a decision is material, disqualification is required only if the effect is distinguishable from the effect on the public generally. (Section 87103.). Regulation 18703 clarifies that:

> A material financial effect of a governmental decision on an official's interests, as described in Government Code Section 87103, is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public.
>
> Regulation 18703.

For the Coastal Commission, the public consists of the coastal zone. Thus, disqualification is required unless the decision will affect the official's economic interest, e.g. the donor of the gift, in the same manner as the residents in the coastal zone, or a significant segment of the residents in the coastal zone.

Assuming the donor of the gift is an agency of the federal government, if the effect of a decision is material as to the federal government, the effect of the decision flows to all residents of the federal government. This would include the residents of the coastal zone. Therefore, the effect of the decision would be the same as the effect on the public generally. Accordingly, no disqualification is required if the donor is the federal government.

Similarly, if the donor is another state agency in California, the effect of the decision will flow to all residents of the state. Accordingly, no disqualification is required if the donor is the state government.

If the donor is a local government agency, then it is less likely that the effect of the decision will be the same as the effect on the residents of the coastal zone, or a significant segment of the residents of the coastal zone. Whether the residents of the jurisdiction of the local government agency constitute a significant segment must be determined on a case-by-case basis. In such circumstances, disqualification may be required if the effect of the decision on such donor is material.

3. <u>APPLICATION OF REGULATION 18728</u>

Regulation 18728(a) provides:

> As used in this section, "honorarium" means a payment for speaking at any event, participating in a panel or seminar or engaging in any similar activity. For purposes of this section, free admission, food, beverages and similar nominal benefits provided to a filer at an event at which he or she speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel and for necessary accommodations provided directly in connection with the event are not payments and need not be reported by the filer.

Regulation 18728 (a).

This regulation contemplates the performance of a certain type of service at a structured event such as giving a speech or presentation either individually or as part of a panel. If staff members of the Coastal Commission perform this function at the

conference, workshop, or other event, the free admission, food, beverages and similar nominal benefits provided to the staff member of the Coastal Commission are not payments and need not be reported. In addition, necessary accommodations provided directly in connection with the event are not payments and need not be reported. Finally, the payment for actual intrastate travel provided to the staff member is not a payment and need not be reported; payment for out-of-state travel, however, must be reported either as income or gift.[4]

4. APPLICATION OF IN RE STONE (1977) 3 FPPC Ops. 52

The Commission's Opinion in In re Stone (1977) 3 FPPC Ops. 52 (copy enclosed), contemplates the donor of a gift providing the gift to a government agency which then provides the gift to its employees. If the Coastal Commission is provided a gift for the use of the Coastal Commission's staff, following the procedure in Stone would ensure that the gifts are deemed gifts to the agency and not to the officials who use the gift. Thus, the Stone Opinion provides a procedure whereby a gift used by a public official is deemed to be a gift to the agency and not to the official who uses the gift if the procedures outlined in the opinion are followed. In such circumstances, since the payments are not deemed gifts to the official, they do not give rise to any reporting or disqualification obligations. This conclusion would not change if the funding or invitation is for a specifically identified purpose which is likely to be used by a particular, known employee because of the subject matter of the activity, provided the donor does not specify or limit the availability of the funding to such employee.

Finally, the Stone Opinion contemplates the resolution being adopted by the legislative body of the agency. Accordingly, the Coastal Commission's executive director or other member of the management staff may not adopt such resolution.

Regulation 18726(b) (copy enclosed) provides the general rule with respect to the valuation of gifts. An employee who attends a conference because space becomes available at the last minute is not treated differently for purposes of the Act.

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[4] It would appear that if the staff member of the Coastal Commission is participating in a structured event by giving a speech or presentation, the staff member has provided some consideration and, therefore, if such consideration is deemed equal and adequate consideration, this payment for out-of-state travel should be deemed income and, pursuant to Section 82030(b)(2) need not be reported if it is "reimbursement for expenses...received from a state, local or federal government agency...."

5. FUNDS RECEIVED FROM A PRIVATE PERSON OR ENTITY

If a staff member of the Coastal Commission becomes aware that the payment he or she has received is from a private person or entity, the payment should be analyzed to determine whether the payment constitutes income or gift.[5] If the payment is deemed income, the exception provided by Section 82030(b)(2), which exempts payments for reimbursements or per diem from a state, local, or federal government agency, would not be applicable.

If the staff member of the Coastal Commission discovers that the funds used for the sponsorship of an event are provided by a private person or entity, the circumstances would dictate the analytical approach to be adopted to determine whether such payment results in any disclosure or disqualification obligations. Thus, if the private person or entity earmarked the funds to be used as payments for the staff members of the Coastal Commission, the payments will be deemed to have been made by the private person or entity to the staff member, even if the payment is received directly from the government agency which sponsored the event. On the other hand, if the payments by the private person or entity are not earmarked for the staff members of the Coastal Commission, but are merely provided to the government agency to enable the agency to sponsor the event, the payment received by the staff member of the Coastal Commission will not be attributed to the private person or entity.

I trust this letter provides you with the guidance you requested. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel

Jeevan S. Ahuja

By: Jeevan S. Ahuja
Counsel, Legal Division

SH:JSA:aa

Enclosures

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[5] For disqualification purposes, Section 87100 clarifies that a public official shall not make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

California Fair Political Practices Commission

Orig Small
copy Douglas
Dickey
Legal file

RECEIVED
MAR 29 1990
CALIFORNIA
COASTAL COMMISSION

March 28, 1990

Peter M. Douglas
Executive Director
California Coastal Commission
631 Howard Street, Fourth Floor
San Francisco, CA 94105

Re: Your Request for Advice
Our File No. A-90-128

Dear Mr. Douglas:

You had requested advice regarding the responsibilities of the employees of the Coastal Commission under the Political Reform Act (the "Act").[1] One of the questions dealt specifically with the reporting responsibilities of Coastal Commission Staff Attorney Dorothy Dickey. This letter confirms the telephone advice provided to Ms. Carolyn Small of your office on March 26, 1990.[2]

Ms. Dickey attended a conference sponsored by Minerals Management Service (MMS), the agency within the Department of the Interior with primary federal responsibility for oil and gas projects on the outer continental shelf. The Coastal Commission paid for the travel and lodging costs incurred by Ms. Dickey. There was no charge for the conference. The conference included background sessions on conflict resolution and application of the principles to conflicts between various agencies and industry. Ms. Dickey's specific question is whether she incurred any reporting obligations by attending the conference.

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[1] Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

[2] In discussions with Ms. Small, we had agreed that in view of Ms. Dickey's deadline for filing her statement of economic interests I would respond to Ms. Dickey's question immediately, and respond to the other questions in a subsequent letter.

428 J Street, Suite 800 • P.O. Box 807 • Sacramento CA 95804-0807 • (916) 322-5660

Among MMS' responsibilities is the review and approval of outer continental shelf oil and gas plans. The Coastal Commission receives consistency certifications for these plans. Coastal Commission staff reviews and analyzes the plans, and prepares recommendations for the Coastal Commission's consideration. Staff also prepares proposed regulations, and various informational documents dealing with oil and gas activities. The Coastal Commission also conducts consistency review of proposals to be carried out or funded by various agencies within the Department of the Interior.

Section 87302(b) specifies that designated employees file statements of economic interests disclosing reportable investments, business positions, interests in real property and income. Income, as defined in the Act, includes gifts. (Section 82030.) Gifts are defined in Section 82028 as follows:

> [A]ny payment to the extent that consideration of equal or greater value is not received ....

Section 82028 excludes from the definition of a gift:

> Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."
>
> Section 82028(b)(1).

Thus, gifts do not include informational materials. Informational materials received by Ms. Dickey at the conference sponsored by MMS, including the materials, training, and information itself are, therefore, not deemed to be gifts within the meaning of Section 82028.[3] (See Kolodney Advice Letter, No. A-87-182; Newman Advice Letter, No. A-84-187; copies enclosed.)

In the circumstances you have described, the Coastal Commission paid for the travel and lodging costs incurred by Ms. Dickey. Income includes reimbursement for expenses and per diem received by a public official. (Section 82030(a).) However, reimbursement for expenses or per diem from a local, state, or federal governmental agency are specifically excluded from the definition of income. (Section 82030(b)(2).) Accordingly, Ms. Dickey's participation in the conference does not give rise to any reporting obligations on her statement of economic interests.

I trust this letter responds to Ms. Dickey's concerns. I will be responding to the other questions you have raised in the

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[3] However, as noted above, Section 82028(b)(1) specifies that payment for travel or reimbursement for expenses shall not be deemed "informational material."

near future. Meanwhile, if you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel

Jeevan S. Ahuja

By: Jeevan S. Ahuja
Counsel, Legal Division

KED/JSA/aa

Enclosures

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A GUIDE TO GOVERNMENT CODE SECTION 84308 OF THE POLITICAL REFORM ACT OF 1974

CONFLICTS OF INTEREST AND CAMPAIGN CONTRIBUTIONS

California Fair Political Practices Commission

The Political Reform Act was enacted by the people of the State of California by an initiative, known as Proposition 9 in 1974. Under the general conflict of interest provisions of the Act, the receipt of campaign contributions is not a basis for disqualification by a public official. However, in 1983, Government Code Section 84308 was added to the Act to deal specifically with campaign contributions and government decisionmaking by certain officials. It does this in three ways. First, the law *prohibits* solicitation or receipt of campaign contributions by certain officials from parties, participants or their agents in proceedings involving licenses, permits or other entitlements for use. Second, the law requires an official's *disqualification* in such proceedings if the official has received campaign contributions of $250 or more from a party or participant within the 12 months preceding the decision. Third, it requires the *disclosure* of all such campaign contributions.

Who Must Comply with Section 84308?

The law applies only to board members, commissioners or individuals who head state or local government agencies and who make decisions in proceedings which involve licenses, permits, or other entitlements for use. These persons are called officers in the statute to distinguish between those public officials who are covered by the statute and those who are not. Officers include planning commissioners, members of boards or commissions, board members of joint powers authorities and other regional governing or planning agencies, and heads of local and state agencies; however, certain agencies are exempt.

* * *

Which Agencies are Exempt Under Section 84308?

The law expressly exempts the courts, the Legislature, state constitutional officers and the Board of Equalization. Additionally, local government agencies whose members are directly elected by voters, such as boards of supervisors, city councils and school boards, are also exempt. This exemption applies to committees of the agency, and it applies when the agency designates itself in its entirety to sit as the governing body of another agency, e.g., a redevelopment agency. However, a member of one of these agencies is exempt only when he or she is acting as a member of the agency to which he or she is elected. If a member of an exempt body is also a voting member of another body such as a joint powers agency or regional planning agency, the member is covered by the law only with respect to proceedings before the nonexempt body.

Examples:

The Orangeblossom City Council designates itself in its entirety to act as the City's redevelopment agency. Section 84308 would not apply to the city council decisions nor to the redevelopment decisions.

Three city councilmembers and two county supervisors sit on a city-county joint powers authority. Section 84308 applies to the license, permit or other entitlement for use proceedings before the joint powers authority because the councilmembers and supervisors were not elected directly to the authority.

Rosehill Board of Supervisors has a committee, made up of supervisors only, which decides appeals from the county planning commission's decisions on land use licenses and permits. Section 84308 does not apply to committees of exempt agencies.

* * *

What Types of Governmental Proceedings are Covered by Section 84308?

The law applies to proceedings to grant, deny, revoke, restrict or modify "licenses, permits, or other entitlements for use." This is defined to mean proceedings on all business, profession, trade and land use licenses and permits, and other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts) and all franchises. Decisions on general plans, general building or development standards or other rules of general application are not covered by Section 84308.

Examples of the types of decisions covered by the law include decisions on professional license revocations, conditional use permits, rezoning of specific parcels, zoning variances, tentative subdivision and parcel maps, consulting contracts, cable television franchises, building and development permits, public street abandonments, and private development plans. The law does not apply to purely ministerial decisions in these matters.

* * *

Who is a Party?

A party is any person (including a business entity) who files an application for, or is the subject of, a proceeding involving a license, permit or other entitlement for use.

* * *

Who is a Participant?

A participant is any person who is not an actual party to the proceeding, but who (1) actively supports or opposes a particular decision (i.e., lobbies the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence the officers of the agency) and (2) has a financial interest in the outcome of the decision.

Example:

Paula Peters and Nancy North are neighbors in an exclusive residential neighborhood. North has applied for a conditional use permit to allow her to conduct an auto repair business on her driveway. In stating her opposition to North's application before the planning commission, Peters testified that the granting of the permit would substantially reduce the fair market value of her property. She also presented a petition signed by 20 neighborhood residents opposed to the granting of the permit. North is a party. Peters is a participant—she is not an actual party to the proceeding, but she has testified in opposition and has a financial interest in the outcome of the proceeding. The neighbors who merely signed the petition are not participants.

Note: Merely signing a petition (defined as a communication signed by ten or more individuals) does not make one a participant.

* * *

Who is an Agent?

An agent is an individual or firm who represents a party or a participant in a proceeding. If an individual agent is an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are considered agents.

Campaign contributions made by a party or participant are aggregated with those made by the party or participant's agent within the 12 months preceding the decision or the period of the agency relationship, whichever is shorter.

* * *

What Does Section 84308 Prohibit?

Section 84308 prohibits officers from soliciting, accepting or directing campaign contributions of $250 or more from any party, participant or agent of a party or participant, while a proceeding is pending before the officer's agency and for three months following the decision. Similarly, a party or participant and his or her agent cannot make a campaign contribution of $250 or more to an officer during the pendency of the proceedings and for three months following the decision.

When a closed corporation is a party to, or a participant in, a proceeding, the majority shareholder of the corporation is subject to the prohibition and disclosure requirements as well as the corporation itself.

Examples:

A person requests information from the city planning department on petitioning for a zoning variance. The matter is not pending before the planning commission, and Section 84308 does not apply until the petition is actually filed and submitted to the planning commission for its determination.

A person applies to the city for a conditional use permit, and the matter is set for hearing before the planning commission. The planning commissioners may not receive, solicit or direct any contributions of $250 or more from the applicant or his agents. The applicant is similarly prohibited from making any contributions of $250 or more to the planning commissioners while the matter is pending before the planning commission and for three months after the decision is made.

* * *

Disqualification: When is Disqualification Required?

Disqualification is required when, prior to making a decision, an officer learns that a party or participant in a proceeding has made a contribution of $250 or more to the officer within the preceding 12 months. However, if the officer returns the campaign contribution (or that portion of the contribution which is over $249) within 30 days from the time he or she learns of the contribution and the proceeding, then disqualification is not required.

Examples:

A developer has filed for a conditional use permit from the city's land use agency. The developer gave a land use agency officer a $750 campaign contribution two months before he filed for the permit. The campaign contribution did not violate Section 84308 since it was given prior to the developer's request for a permit. Both the officer and the developer would be required to disclose the contribution and the officer would have to disqualify herself from the proceedings, unless she returns at least $501 of the $750 (reducing the amount to less than $250) within 30 days of learning of both the contribution and the proceeding.

Sarah Smith is a candidate for the Smalltown City Council. Smith is also on the Smalltown Planning Commission. John Doe has a permit request pending before the planning commission. Under Section 84308, Smith is prohibited from soliciting or receiving any contribution of $250 or more from Doe or Doe's agent. If Smith did receive a contribution of $250 or more from Doe, Smith and Doe would be required to disclose the contribution, and Smith would have to disqualify herself from the permit proceedings unless she returns that portion of the campaign contribution in excess of $249 within 30 days after learning of the contribution and Doe's pending permit.

* * *

Disclosure: Who and How?

Prior to rendering any decision, each *officer* who received a campaign contribution of $250 or more within the preceding 12 months from a party, participant or agent of a party or participant must disclose the fact on the record of the proceeding. If there is a public hearing, the officer should make the disclosure on the public record at the beginning of the hearing. However, if no public hearing is held, the disclosure should be included in the written record of the proceeding.

Likewise, a *party* to a proceeding must disclose on the record of the proceeding any campaign contribution of $250 or more made within the preceding 12 months by the party or his/her agent to any officer of the agency.

The FPPC has prepared disclosure forms for this purpose. The agency should make forms available to the agency's officers, parties, and participants.

* * *

How Can a Public Official Get Advice on Section 84308?

The first person a public official should consult for advice is the attorney for the official's agency. The official can also ask the Legal Division of the Fair Political Practices Commission for advice. Requests for written advice are generally answered within 21 working days, although written or telephone advice may be given more quickly in urgent situations. If an official poses a question which is unusually complex, significant or unique, the full Commission may issue an opinion.

The Commission can only issue opinions or give advice directly to the official or to the official's authorized representative. Advice about specific situations cannot be given to members of the public. However, general guidance about the requirements of the law will be provided to anyone who requests it.

All Commission regulations and opinions are published by the California Continuing Education of the Bar. All advice requests and advice letters are public records. Opinions and significant advice letters are summarized in the Commission's monthly Bulletin. Copies of opinions and advice letters can be obtained from the Commission.

* * *

What are the Penalties for Violation of the Political Reform Act?

The Fair Political Practices Commission can bring an administrative action against an official who has violated the Political Reform Act, and can impose administrative penalties of up to $2,000 for each violation. An official who violates the Act may be subject to a civil lawsuit, in which a court can impose a fine. A willful violation of the Act is also a misdemeanor, punishable by a fine up to $10,000 or by imprisonment, and may result in the official being ineligible to run for public office for four years.

* * *

What Should You do if You Suspect that a Public official has Violated the Political Reform Act?

Complaints concerning violations of the conflict of interest provisions of the Political Reform Act should be made to the local district attorney, the Enforcement Division of the Fair Practices Commission, or the Attorney General.

* * *

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Fair Political Practices Commission

The Fair Political Practices Commission administers and enforces the Political Reform Act. It has five members. The chairperson and one other member are appointed by the Governor, one member is appointed by the Attorney General, one by the Secretary of State, and one by the Controller. The Governor's two appointees must be from different political parties. Commissioners serve for four years and cannot be reappointed.

Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95814

Administration Division (916) 322-5660
Enforcement Division (916) 322-6441
Executive/Legal Division (916) 322-5901
Technical Assistance and Analysis Division (916) 322-5662

California
Fair Political
Practices Commission

RECEIVED
MAR 17 1988
CALIFORNIA
COASTAL COMMISSION

March 16, 1988

Ralph Faust, Jr.
Chief Counsel
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105

Re: Your Request for Advice
Our File No. I-88-066

Dear Mr. Faust:

You have written requesting guidance with respect to application of Government Code Section 84308 to the activities of members of the California Coastal Commission. Because your letter seeks only general assistance, without regard to any particular coastal commissioner or any pending decision, we treat your request as one for informal assistance. 1/

QUESTIONS

You have asked a series of questions about disclosure of campaign contributions, return of contributions, and aggregation of contributions. In addition, you have asked several questions about use of certain disclosure forms developed by the California Coastal Commission. Because of the number and variety of the questions, we will address them in sequence.

CONCLUSIONS

Although your questions are many and varied, in summary we conclude:

- Disclosure of contributions is required on the record, regardless of whether the contribution has been returned prior to the hearing. When disqualification is required, a simple statement on the record is sufficient.

- Contributions from a majority shareholder of a closed corporation are treated as if they were the contributions of the corporation. Contributions from comparable investors in other types of business entities are treated in a similar manner.

1/ See 2 California Code of Regulations Section 18329(b)(9) and (c), copy enclosed. Informal assistance does not provide the immunity provided by formal written assistance. (Government Code Section 83114(b).)

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- A contributor to one coastal commissioner may become a participant by communicating with another coastal commissioner if facts are revealed which indicate a financial interest in the proceeding.

- An agent's contributions are aggregated only if the agency relationship is revealed.

- The proceeding which is governed by the statute is only that proceeding which is actually before the Coastal Commission, not some preliminary or ancillary proceeding before another agency.

- Willful or knowing receipt of a contribution includes contributions for which campaign reports have been filed by the officer who received the contribution.

- The disclosure forms used for disclosure by parties and participants in proceedings should be similar to the model forms provided by the Fair Political Practices Commission, copies of which are enclosed.

FACTS

You are the chief counsel for the California Coastal Commission (Coastal Commission), which has twelve voting and three non-voting members, all of whom are part-time. The Coastal Commission's members are appointed.

ANALYSIS

The Political Reform Act (the "Act")[2/] generally prohibits public officials from acting when they have a financial interest in a decision. Section 84308 prohibits appointed public officials from acting when substantial campaign contributors have a financial interest in a decision. Among the findings made by the voters in adopting the Act in 1974 was the following:

2/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

> Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them;
>
> Section 81001(b).

Government Code Section 84308 addresses this finding in three ways. First, the law prohibits solicitation or receipt of campaign contributions by certain officials ("officers") from parties, participants or their agents in proceedings involving licenses, permits or other entitlements for use. (See City of Agoura Hills v. Los Angeles County Local Agency Formation Commission (1988) ___ Cal. App.3d ___, copy of slip opinion enclosed, for a discussion of what constitutes an entitlement for use.) Second, the law requires an officer's disqualification in such proceedings if the officer has received campaign contributions of $250 or more from a party or participant within 12 months preceding the decision. Third, it requires the disclosure of all campaign contributions of $250 or more received from a party or participant within 12 months preceding the decision.

Your questions deal with disqualification and disclosure. Disqualification is required when, prior to making a decision, an officer learns that a party or participant in a proceeding has made a contribution of $250 or more to the officer within the preceding 12 months. However, if the officer returns the campaign contribution (or that portion of the contribution which is over $249) within 30 days from the time he or she learns of the contribution and the proceeding, then disqualification is not required. In either case, the contribution must be disclosed.

Questions 1 and 2. Disclosure. You have asked whether an officer who is prohibited from participating under Section 84308 is required to disclose the fact of the contribution on the record of the proceeding.

The Fair Political Practices Commission (the "Commission") has prepared a pamphlet entitled "A Guide to Government Code Section 84308 of the Political Reform Act of 1974" which answers your question. A copy of that pamphlet is enclosed for your use. In the section headed "Disclosure: Who and How?" it states as follows:

> Prior to rendering any decision, each officer who received a campaign contribution of $250 or more within the preceding 12 months from a party, participant or agent of a party or participant must disclose that fact on the record of the proceeding. If there is a public hearing, the officer should make the disclosure on the public record at the beginning of the hearing. However, if no public hearing is held, the disclosure should be included in the written record of the proceeding.

When disclosure is required by Section 84308, disqualification is also required unless the contribution has not been returned in the manner provided.

You have asked whether it is sufficient for the officer to simply state:

> I disqualify myself on this item per the requirements of the Political Reform Act.

While a more elaborate statement of disqualification might be preferable, the foregoing statement, coupled with the required disclosure, would suffice to meet the requirements of the Act.

Question 3. Return and Disclosure. You have asked whether disclosure is required even if the contribution has been returned prior to the date of the decision. Disclosure is required under these circumstances, even though disqualification is not. This is as much for the protection of the officer as it is for the public's information. Failure to disclose a $250 contribution on the record and explain that it has been returned could lead to the public perception that the officer has acted improperly by participating when he or she should not have participated. This is particularly likely if the officer has already disclosed the contribution on a campaign report. (See Sections 84211(c) and 84308(e).)

Question 4. Majority Shareholder. You asked whether a coastal commissioner who has received a contribution from a majority shareholder of a closed corporation must disclose the contribution and disqualify when the corporation is actually the party or participant. Such a result is dictated by the statute. Section 84308(d) provides:

> When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c) and this subdivision.

The disclosure and disqualification requirements of subdivision (c) apply to the officer who has received the contribution. Consequently, the reference to subdivision (c) quoted above must be interpreted to mean that the officer is required to disclose and disqualify if the majority shareholder of the party or participant has made the contribution.

Question 5. Investor Contributions. You asked a series of questions regarding the treatment of contributions by an investor in a business entity who is not a majority shareholder in a closed corporation. You asked whether other types of business entities are covered.

The legal form of organization of the business entity does not alter coverage under Section 84308 when the business entity is the party to the proceeding. The business may be a partnership, a corporation or a sole proprietorship. However, the rules regarding aggregation of contributions may change depending on the degree of ownership interest held by the contributor. Other forms of business entities would be treated in a manner similar to a closed corporation, so long as the investor was in a position similar to the majority shareholder in a closed corporation. (See In re Lumsdon (1976) 2 FPPC Ops. 140; In re Kahn (1976) 2 FPPC Ops. 151; and Advice Letters to Lowell, Nos. A-83-155 and A-85-262; Bane, No. A-83-048; and Pellman, No. A-85-094, copies enclosed.)

On the other hand, contributions from a less-than-majority owner of a business entity would not be aggregated with those of the business entity, absent circumstances indicating that the contributions were made by the partial owner as an agent for the business entity or that the owner and the business entity were "acting in concert." (See Section 82047; In re Lumsdon, supra; and In re Kahn, supra.)

You also have asked whether there are any circumstances in which an investor's interest in a business entity would make him or her the "subject of" a proceeding under Section 84308(a)(1). Certainly in the case of a sole proprietorship which owns the property that is the "subject of" a coastal permit proceeding, the sole owner of the proprietorship would also be considered the "subject of" the proceeding and would be treated as the party. The same is true, in essence, with respect to the majority shareholder in a closed corporation. Section 84308(d) mandates that the majority shareholder is subject to the same restrictions under Section 84308(b), (c) and (d) as if he or she were the party or participant.

Question 6. Communication with other Agency Officers. You have asked about a situation where a contributor to one coastal commissioner communicates with another coastal commissioner outside the presence of the coastal commissioner who received the contribution. Your question has two components. First, is such a communication sufficient to make the contributor a "participant" within the meaning of Section 84308? The answer to this question is yes. Regulation 18438.4(a) provides that a person "lobbies in person" within the meaning of Section 84308 when that person communicates directly with one of the officers of the agency. In your agency's case, that is one of the coastal commissioners. The commissioner contacted need not be the one to whom the contribution was made.

The second part of your question is whether the coastal commissioner who received the contribution needs to have actual knowledge of the fact of a communication with another coastal commissioner before the requirements of Section 84308 apply. If, in fact, the recipient coastal commissioner has no knowledge that a contributor has communicated with another commissioner and the recipient commissioner has not received any such communication himself or herself, he or she would not "know or have reason to know" that the contributor has a financial interest in the proceeding. (Section 84308(c).) However, written communications in the record of the proceeding, even if addressed to other commissioners would provide reason to know if the requirements of Regulation 18438.7(a) are satisfied. This would occur if the participant reveals facts which make the participant's financial interest apparent.

Question 7. Knowledge of Agency Relationship. You have asked about aggregation of contributions from parties or participants and their agents. Section 84308 requires that contributions of a participant or a party must be aggregated with contributions of any agents they may have, in order to determine whether a $250 contribution has been received. An agent is defined to be someone who represents a party or participant in connection with the proceeding . (Regulation 18438.3.)

You have asked whether an officer must have actual knowledge of the agency relationship before the requirement of aggregation applies or whether constructive knowledge is sufficient. We believe that the "knows or has reason to know" standard utilized elsewhere in the statute is the appropriate one. If the agent never, in fact, reveals that he or she is an agent of the party or participant, it is obvious that the officer would neither know nor have reason to know that a contribution from the agent should be aggregated with a contribution from the party or participant.

However, if the agent files a document with the Coastal Commission indicating that he or she is acting as an agent for a party or participant, the officer has "reason to know" of the agency relationship, whether or not the officer actually looked at the document. Otherwise, enforcement of the statute would be impossible. Officers would simply deny that they ever read the document, even though it was in the materials which they were considering in the matter.

On the other hand, actual knowledge on the part of the officer is sufficient, even if gained outside the official record in the proceeding. For instance, an officer may know of an individual's affiliation with a law firm, even if the affiliation is not disclosed directly on the record (unlikely as that may be).

Question 8. Willful or Knowing Receipt. You have pointed out that in Section 84308(c) the language regarding the officer's disclosure responsibility differs from that regarding the officer's disqualification responsibility. The latter is triggered "if the officer has willfully or knowingly received a contribution . . ." The disclosure requirement does not contain this language. You have asked whether this difference in wording is significant and for our interpretation of the term "willfully or knowingly."

We believe the difference in wording is not significant. The term "willfully or knowingly received a contribution" is meant to protect the officer from being "blind-sided" by a contribution which he or she neither wanted nor knew about. Certainly, once contributions have been accepted, deposited and reported pursuant to other requirements of the chapter (Section 84100, et seq.), the contribution would appear to be "willfully or knowingly received." A return of the contribution prior to the close of a campaign reporting period would negate that appearance and would, of course, eliminate the need for disqualification.

In the case of a contribution that has not yet been reported because the reporting period has not ended, the issue of whether the contribution was "willfully or knowingly received" would be a question of fact. If the officer did not have any actual knowledge of the receipt of the contribution, then it could not have been "willfully or knowingly received." However, it should be remembered that both the giving and receiving of a contribution of $250 or more from a party or participant while the matter is pending and for three months thereafter is prohibited by Section 84308(b).

Question 9. Knowledge Required for Disclosure. You have asked whether knowledge of the participant's financial interest in a decision is a precondition to the requirement of disclosure. You have pointed out that the disqualification requirement is specifically conditioned on knowing or having reason to know of the participant's financial interest.

We believe that the two requirements go hand in hand. The person is not a participant, as defined in Section 84308(a)(2), unless the person has a financial interest in the proceeding. Therefore, an officer would not know that a person qualifies as a participant unless the officer also knows that the person has a financial interest in the proceeding. Regulation 18438.7(a) defines when an officer knows or has reason to know that a person has financial interest in a proceeding. Knowledge or reason to know occurs when the person reveals facts in his or her written or oral support or opposition before the agency which make apparent the person's financial interest. Consequently, knowing or having reason to know of the participant's financial interest is a precondition of disclosure as well as disqualification.

Question 10. Knowledge of the Proceeding. You have asked whether the thirty-day period in which the contribution may be returned begins to run if the coastal commissioner gains actual knowledge that a proceeding may be forthcoming, but the proceeding is not currently "pending" before the coastal commission because no application has yet been filed. Regulation 18438.7(b) controls in these circumstances. It speaks only in terms of a proceeding before "the agency" of which the officer is a member.

The fact that a proceeding may have been initiated at the local level which may at some point reach the Coastal Commission, if pursued, does not mean that the matter will ever actually reach the Coastal Commission. Many events may intervene to delay or terminate the process. Consequently, only the pendency of the proceeding before the official's own agency is relevant to the issue of whether to return the contribution. The thirty-day period does not begin to run prior to an application being filed with the Coastal Commission.

Question 11. Compilation of Contributor Data. You have asked whether the general requirements of Section 84104 for record keeping by candidates, treasurers and elected officers require officers to maintain detailed records for purposes of Section 84308. The general requirements in Section 84104 are for the purpose of the reporting obligations contained elsewhere in Chapter 4 of the Act. While Section 84308 is a part of that chapter, the requirement does not mean that an

officer must carry around a list of contributors to all meetings. (See Pellman Advice Letter, supra.)

Question 12. Party and Participant Disclosure Forms. You have asked a series of questions regarding information to be requested from parties and participants. Essentially, you asked whether your agency's forms need revision and whether certain questions are necessary to comply with the law's requirements. I enclose a copy of a set of model disclosure forms prepared by this agency for use by agencies covered by Section 84308. We believe these forms contain the relevant questions without being overly intrusive. After you review them, please do not hesitate to ask any questions you may have regarding their use or modification.

Question 13. Speakers' Slips. Your question regarding "speakers' slips" is really one regarding participant disclosure, and is addressed by our response to question 12, above. After you review the model disclosure forms, please do not hesitate to ask any questions you may have. I note that when Section 84308 was amended in 1984, the requirement for participant disclosure was deleted. Consequently, no violation occurs if a participant fails or refuses to disclose.

I trust this letter adequately responds to your many questions. If you have further questions regarding its content, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

By: Robert E. Leidigh
Counsel, Legal Division

DMG:REL:jaj

Enclosures

Regulations of the Fair Political Practices Commission
Title 2, Division 6 of the California Administrative Code)

18329. Formal Written Advice and Informal Assistance

(a) The Commission will assist persons in complying with the Political Reform Act. The Commission will make every reasonable effort to provide formal written advice pursuant to Government Code Section 83114(b) or informal assistance without unnecessary delay and in sufficient time to facilitate compliance with the Act.

(b) Formal Written Advice

(1) Formal written advice may be requested in writing pursuant to Government Code Section 83114(b) by any person whose duties under the Act are in question or by that persons's authorized representative.

(2) Requests for formal written advice will not be acted upon unless the following requirements are met:

(A) The name, title or position, and mailing address of the person whose duties are in question are provided. In addition, if the request is submitted by an authorized representative, it shall contain a specific statement that such authorization has been made.

(B) All the facts material to the consideration of the question or questions presented have been provided in a clear and concise manner.

(3) The time period specified in Government Code Section 83114(b) does not commence until the requirements of subsection (2) have been satisfied.

(4) If a formal written advice request does not meet the requirements in subsection (2) the requestor shall promptly be notified of that fact in writing and shall be provided with a copy of this regulation.

(5) When a request for formal written advice is received which complies with the requirements in subsection (2) the request shall promptly be acknowledged in writing. In addition, the acknowledgement shall provide the requestor with the name of the staff person to whom the request has been assigned, the staff person's office phone number, and the date on which the period specified in Government Code Section 83114(b) expires. If the request is from an authorized representative, a copy of the foregoing acknowledgement shall also be sent to the person on whose behalf the advice is being requested. If the request is received directly from a member of an agency a copy of the request and the acknowledgement may also be sent to the agency's counsel and/or the head or clerk of the agency.

(6) With the exception of advice that a person need not disclose specific private economic interests,

copies of the advice request and the formal written advice shall be public records. Summaries of the advice provided may be published from time to time in the Commission's Bulletin newsletter.

(7) Formal written advice provided pursuant to Government Code Section 83114(b) does not constitute an Opinion of the Commission issued pursuant to Government Code Section 83114(a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code Section 83114(b) is limited to the requestor and to the specific facts contained in the formal written advice.

(8) Subsection (a) notwithstanding, the Commission may decline to give formal written advice. The requestor shall be notified if the request for formal written advice is declined. Formal written advice may be declined in any of the following circumstances:

(A) The requestor is seeking advice relating to past conduct.

(B) The requestor is seeking advice about another person's duties under the Act and has not been authorized to do so by that person.

(C) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.

(D) The request does not present a question under the Political Reform Act, or is purely hypothetical.

(E) The request presents issues requiring a policy interpretation best made through a Commission Opinion under Government Code Section 83114(a) or by adoption of a regulation pursuant to Government Code Section 83112.

(F) A response rendering formal written advice would be inappropriate or otherwise not in the public interest.

(9) A request for formal written advice under Government Code Section 83114(b) and this regulation may be treated as a request for an Opinion under Government Code Section 83114(a), or as a request for informal assistance under subsection (c).

(c) Informal Assistance

(1) Informal assistance may be requested by any person whose duties under the Act are in question or by that person's authorized representative. In addition, informal assistance may be requested by any person with a duty to advise other persons relating to their duties

or actions under the Act. Informal assistance may also be requested by any agency whose members or employees are subject to the provisions of the Act.

(2) Informal assistance may be requested or rendered orally or in writing.

(3) Informal assistance rendered pursuant to this regulation does not provide the requestor with the immunity set forth in either Government Code Section 83114(a) or (b).

(4) The Commission may decline to provide informal assistance or may limit such assistance to the explanation, in general terms, of the requirements of the Act in any of the following circumstances:

(A) Assistance or advice is being sought regarding past conduct, unless the advice or assistance sought is related to possible amendment of previous reports filed by the person requesting the advice.

(B) The requestor is seeking advice anonymously.

(C) Assistance or advice is being sought regarding the duties of another person and the requestor does not appear to be authorized to make the request as the person's representative, or does not provide the identity of the person on whose behalf the assistance is being sought.

(D) The question presented is purely hypothetical.

(E) The question presented is too complex or is otherwise inappropriate for resolution by informal assistance and should be resolved by formal written advice or an Opinion.

(F) The facts presented are insufficient or too vague to render specific informal assistance or do not appear to present a question under the Act.

(G) Rendering informal assistance would be inappropriate or otherwise not in the public interest.

(Gov. Code Section 83112

History:
(1) New section filed as emergency 5/10/76; effective upon filing.
(2) Amendment filed 3/31/77; effective 4/30/77.
(3) Amendment of (c) thru (g) filed 11/2/78; effective 12/2/78.
(4) Amendment filed 7/14/83; effective 8/15/83.
(5) Repealed - filed 7/16/85; effective 8/15/85.
(6) Adopted as new section - filed 7/16/85; effective 8/15/85.

CONFLICT OF INTEREST CODE FOR THE

CALIFORNIA COASTAL COMMISSION

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **CALIFORNIA COASTAL COMMISSION.**

Designated employees shall file their statements with the **CALIFORNIA COASTAL COMMISSION** <u>who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008)</u>. Upon receipt of the statement(s) of the **COMMISSION MEMBER ALTERNATES AND THE EXECUTIVE DIRECTOR** the agency shall make and retain a copy and forward the original of these statement(s) to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

APPENDIX A

Designated positions:	Disclosure Category:
Commission Members	*
Alternate Commission Members Executive Director	a
Chief Deputy Director Deputy Director District Director Deputy Director for Land Use Assistant Deputy Director for Land Use Staff Counsel Legal Counsel Graduate Legal Assistant Senior Engineer Geologist Biologist Coastal Program Manager Coastal Program Analyst, I, II, III Graduate Student Assistant Intern Student Assistant	b
Contracts and Grants Coordinator Contracts and Grants Manager Chief of Administrative Services Information Officer Librarian	c
Consultant or Special Projects Employee	d

*Persons in this category report pursuant to Article 2, Chapter 7 of the Political Reform Act of 1974. These positions appear in this conflict of interest code on an informational basis only; additional disclosure is not required by the Coastal Commission Members.

APPENDIX B
DISCLOSURE CATEGORIES

a. Persons in this category shall report all sources of income, interests in real property, and investments and business positions in business entities.

b. Persons in this category shall report all investments, business positions, interests in real property, and sources of income with any business entity subject to the following limitations:

(1) Income, including a gift, is reportable only if it is received from a source doing business within the Commission's jurisdiction, planning on doing business within the Commission's jurisdiction, or has done business within the Commission's jurisdiction during the two years prior to the time any statement is required under this code.

(2) An interest in real property is reportable only if property or any part of it is located within or not more than two miles outside the boundaries of the Commission's jurisdiction.

(3) Investments are reportable only if the business entity has an interest in real property in the Commission's jurisdiction, or does business, or plans to do business in the Commission's jurisdiction at any time during the two years prior to the time any statement is required under this code.

(4) Business entities are reportable for purposes of business position disclosure, only if the business is doing business, or plans to do business in the Commission's jurisdiction at any time during the two years prior to the time any statement is required under this code.

c. Persons in this category shall disclose any investment, and business position, in a business entity or income from a source which is of the type that contracts with the Coastal Commission to provide goods, services, materials or facilities to the Coastal Commission.

d. Persons in this category are considered designated employees. They are bound by the disclosure and disqualification requirements of this code. The Executive Director, however, may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's

duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of this code.

EXCEPTION TO DEFINITION OF "JURISDICTION" CONTAINED IN THE POLITICAL REFORM ACT:

"Jurisdiction" is limited to the Coastal Zone as described in Resources Code Section 30000 et seq.

NOTE: Authority cited: Section 30333, Public Resources Code, Section 87306, Government Code.
Reference: Sections 87300-87302, Section 87306, Government Code.

(THIS IS THE LAST PAGE OF THE AMENDED CONFLICT OF INTEREST CODE FOR THE COASTAL COMMISSION)

CERTIFICATION OF FPPC APPROVAL

Pursuant to Government Code Section 87303, the conflict of interest code for the Coastal Commission was approved on October 30, 1991 by the Executive Director of the Fair Political Practices Commission.

By: Scott Hallabrin

Effective: Pursuant to Gov Code Section 11346.2

Fair
Political
Practices
Commission
Ravi Mehta, Chairman

J

FORM 721
1995-96

Officials & Candidates
Listed in
Government Code Section 87200

Statement of Economic Interests

P.O. Box 807 • Sacramento, CA 95812 • (916) 322-5660

IMPORTANT

Prohibitions: Gifts and Honoraria

Gift Prohibitions:

All state and local officials who are listed in Government Code Section 87200, and candidates for those elective offices (except judges and judicial candidates), are prohibited from accepting a gift or gifts aggregating more than $280 in a calendar year from a single source. (See list of offices on page 3. Gift limits for judges are discussed below.)

In addition, elected state officers, candidates for state offices, and state board and commission members are subject to a $10 per calendar month limit on gifts from lobbyists and lobbying firms registered with the Secretary of State.

Honorarium Prohibition:

All state and local officials who are listed in Government Code Section 87200, and candidates for those elective offices (except judges and judicial candidates), are prohibited from accepting any honorarium for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (See list of offices on page 3. The honorarium prohibition for judges is discussed below.)

Exceptions:

- The $280 gift limit and honorarium prohibition do not apply to a part-time member of the governing board of a public institution of higher education, unless the member is also an elected official.

- For state board and commission members, the $280 gift limit and honorarium prohibition are applicable only if the member would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. The $10 gift limit is applicable only to lobbyists and lobbying firms registered to lobby the board or commission member's agency.

For detailed information, see the Commission's Fact Sheet on Gifts, Honoraria and Travel (1/96). The Fact Sheet can be obtained from your filing officer or the Fair Political Practices Commission at (916) 322-5660.

Judges:

Effective January 1, 1995, Section 170.9 was added to the Code of Civil Procedure. Section 170.9 prohibits judges from accepting gifts from any single source in a calendar year with a total value of more than $250, and prohibits judges from accepting any honorarium. Section 170.9 will be enforced by the Commission on Judicial Performance. The Fair Political Practices Commission has no authority to interpret or enforce the Code of Civil Procedure.

Disqualification

Public officials are, under certain circumstances, required to disqualify themselves from making, participating in, or attempting to influence governmental decisions which will affect any of their financial interests, not just those which they are required to disclose on a statement of economic interests.

For assistance in determining when disqualification is required, please contact the FPPC Legal Division at (916) 322-5660.

Post-Governmental Employment

Members of the State Legislature and certain state administrative agency officials who leave office are subject to restrictions on representing clients or employers before their former agencies.

For assistance concerning restrictions on post-government employment, please contact the FPPC Legal Division at (916) 322-5660.

Enforcement

The Fair Political Practices Commission may impose penalties for statements of economic interests which are filed late. The fine is $10 per day, beginning the day after the filing deadline, up to a maximum of $100. Late filing penalties can be reduced or waived under certain circumstances.

In addition, the Fair Political Practices Commission may initiate investigations with respect to any suspected violation of the Political Reform Act. Other law enforcement agencies (the Attorney General or district attorney) may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement proceedings which could result in the imposition of monetary penalties of up to $2,000 per violation. In lieu of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General or district attorney) where the measure of damages for most violations is the amount or value not properly reported. Persons who violate the conflict of interest disclosure provisions of the Political Reform Act can also be subject to discipline by their agency, including dismissal.

Finally, a knowing or willful violation of any provision of the Political Reform Act is a misdemeanor. Persons convicted of a misdemeanor may be disqualified for four years from the date of the conviction from serving as a lobbyist or running for elective office, in addition to other penalties which may be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

The Fair Political Practices Commission has a toll-free telephone number to report violations. The number is 1-800-561-1861.

WHO MUST FILE FORM 721?

STATE OFFICERS:

- Governor
- Lieutenant Governor
- Attorney General
- Controller
- Insurance Commissioner
- Secretary of State
- Treasurer
- Public Utilities Commissioners
- Superintendent of Public Instruction
- State Board of Equalization Members
- State Energy Resources Conservation and Development Commissioners
- State Coastal Commissioners
- Fair Political Practices Commissioners
- Members of the State Legislature

JUDICIAL OFFICERS:

- Judges (Supreme, Appellate, Superior, Municipal, and Justice Courts)
- Court Commissioners
- Retired Judges, Pro-Tem Judges and part-time Court Commissioners who serve or expect to serve 30 days or more in a 12-month period

COUNTY AND CITY OFFICERS:

County Officers.

- Members of the Board of Supervisors
- Chief Administrative Officers
- District Attorneys
- Planning Commissioners
- County Counsels
- County Treasurers
- County Public Officials (Including Employees and Consultants) Who Manage Public Investments

City Officers

- Mayors
- Members of the City Council
- City Attorneys
- City Managers
- Chief Administrative Officers
- Planning Commissioners
- City Treasurers
- City Public Officials (Including Employees and Consultants) Who Manage Public Investments

WHERE MUST STATEMENTS BE FILED?

STATE OFFICERS:

Assuming Office, Annual, and Leaving Office Statements - File with your agency.

Candidate Statements - File with the registrar of voters/county clerk of the county in which you file your declaration of candidacy.

JUDICIAL OFFICERS:

Assuming Office, Annual, and Leaving Office Statements - File with the clerk of your court.

Candidate Statements - File with the clerk of the court.

COUNTY OFFICERS:

Assuming Office, Annual, and Leaving Office Statements - File with your county clerk.

Candidate Statements - File with the registrar of voters/county clerk of the county in which you file your declaration of candidacy.

CITY OFFICERS:

Assuming Office, Annual, and Leaving Office Statements - File with your city clerk.

Candidate Statements - File with the clerk of the city in which you file your declaration of candidacy.

NOTE: Your filing official will retain a copy of your statement and forward the original to the FPPC which will review your statement. (Statements filed by certain public officials who manage public investments are retained by the local filing officer.)

TYPES OF STATEMENTS AND FILING DEADLINES

ASSUMING OFFICE STATEMENT:

(For Newly-Elected and Newly-Appointed Officials ONLY)

Elected Official--File no later than **30 days** after assuming office. Your assuming office date is the date you are sworn in or otherwise authorized to serve in the position.

Exception:

- Elected state officers who assumed office in December 1995 or January 1996, and incumbent officeholders who are re-elected or re-appointed without a break in service are not required to file an assuming office statement, but will file the next annual statement due.

Appointed Official Not Subject to Confirmation by the State Senate or the Commission on Judicial Appointments--File no later than **10 days** after assuming office. Your assuming office date is the date you are sworn in or otherwise authorized to serve in the position.

Appointed Official Subject to Confirmation by the State Senate or the Commission on Judicial Appointments--File no later than **10 days** after appointment or nomination.

-- Complete Schedules A, B, C-1 and C-2 disclosing investments and interests in real property held on the date of assuming office/appointment or nomination. In addition, complete Schedules D, D-1, E, F, G and H-1 through H-3 disclosing income received during the 12 months prior to the date of assuming office/appointment or nomination.

ANNUAL STATEMENT:

Elected State Officers, Judicial Officers, and Members of State Boards and Commissions Required to File Form 721--File no later than **Friday, March 1, 1996.**

County and City Officials--File no later than **Monday, April 1, 1996.**

-- Complete all schedules disclosing investments and interests in real property held and income received at any time during the period January 1, 1995 through December 31, 1995.

Exception:

- If you assumed office between October 1, 1995 and December 31, 1995, and filed an assuming office statement, you are not required to file an annual statement until March 1, 1997, or April 1, 1997, whichever is applicable. The first annual statement you file will cover the day after you assumed office through December 31, 1996.

LEAVING OFFICE STATEMENT:

-- File no later than **30 days** after leaving office.

-- Complete all schedules disclosing investments and interests in real property held and income received at any time during the period beginning from the day after the closing date of your last statement through the date of leaving office.

Exceptions:

- If you leave an office and assume another office within the same jurisdiction on the same day, you are not required to file leaving office and assuming office statements. Instead, you should file the next annual statement.
- If you leave office between January 1 and the filing deadline of your annual statement, you may combine your leaving office statement and your annual statement.

To file a combined leaving office statement and annual statement, check the boxes on the cover page for both types of statements, complete the space indicating the date you left office, and report the interests you held during the period.

The reporting period begins on:
January 1 (the day after the closing date of your previous annual statement), or

If you assumed office during 1995, the period will begin the day after you assumed office.

The reporting period ends on:
The day you left office.

CANDIDATE STATEMENT:

-- File no later than the final filing date for your declaration of candidacy.

-- Complete Schedules A, B, C-1 and C-2 disclosing investments and interests in real property held on the date of filing. In addition, complete Schedules D, D-1, E, F, G and H-1 through H-3 disclosing income received during the 12 months prior to the date of filing.

Exception:

- If you have filed an assuming office or annual statement for the same jurisdiction within 60 days before filing a declaration of candidacy, you are not required to file a candidate statement.

INSTRUCTIONS FOR COMPLETING THE COVER PAGE

- Enter your name, mailing address, and daytime telephone number. You may list your home or business address.
- Check the appropriate box to indicate whether you are seeking or if you hold a state, judicial, county, or city office, and complete the required information for that office.

  Expanded Statement: A person holding two or more positions may complete one statement covering the disclosure requirements for each position and file a copy with each agency. Each copy must contain an original signature. Reportable interests for each position must be disclosed.
- Check the box(es) to indicate the type of statement being filed. If filing an assuming office statement or a leaving office statement, enter the appropriate date.
- Complete the verification by entering the date and place signed, and sign the statement. **An unsigned statement is considered an unfiled statement and you may be subject to late filing penalties.**
- Statements must be completed in ink or typed. Statements completed in pencil are not acceptable.
- Faxed statements: A statement containing 30 pages or less may be faxed by the deadline. However, the original statement must be sent by first-class mail or guaranteed overnight delivery service within 24 hours of the deadline.
- The Form 721 and Instructions are available on the Internet. The address is http://www.fppc.ca.gov/fppc/

Date Received by FPPC

FORM 721

STATEMENT OF ECONOMIC INTERESTS

A Public Document

1995/96

PLEASE TYPE OR PRINT IN INK

Date Received by Filing Official

NAME

TELEPHONE NUMBER ( )

MAILING ADDRESS STREET CITY ZIP CODE

OFFICE HELD OR SOUGHT:

☐ STATE OF CALIFORNIA OFFICE: _____ DISTRICT: _____

☐ JUDICIAL BRANCH COUNTY: _____ COURT: _____

CHECK ONE: ☐ JUDGE ☐ COMMISSIONER ☐ PRO-TEM ☐ RETIRED JUDGE

☐ COUNTY OF: _____ OFFICE/POSITION: _____

☐ CITY OF: _____ OFFICE/POSITION: _____

☐ MULTI-COUNTY: _____ (NAME OF AGENCY) _____ (OFFICE/POSITION)

☐ EXPANDED STATEMENT: _____ (NAME OF AGENCY) _____ (OFFICE/POSITION)

TYPE OF STATEMENT (Check the Appropriate Box(es)):

☐ ASSUMING OFFICE STATEMENT
(For Newly-Elected and Newly-Appointed Officials ONLY)

☐ ELECTED OFFICIAL

☐ APPOINTED OFFICIAL

Date Assumed Office or, if you are an Appointed Official subject to confirmation, enter the Date Appointed or Nominated: _____ mo. day yr.

☐ ANNUAL STATEMENT The period covered is January 1, 1995 through December 31, 1995.

☐ LEAVING OFFICE STATEMENT Date Left Office: _____ mo. day yr.

The period covered is January 1, 19 ____, through the date of leaving office.

☐ CANDIDATE STATEMENT

VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed the statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ *(month, day)*, 19 ____ *(year)*, at _____ *(city and state)*

SIGNATURE _____

(10/95)

FORM 721

NAME _____

Check the appropriate box for each schedule. Complete this summary page after you have carefully reviewed all schedules and instructions.

	SCHEDULE COMPLETED AND ATTACHED	NO REPORTABLE INTERESTS
Schedule A - INVESTMENTS *(Not Held By A Business Entity Or Trust)*	☐	☐
Schedule B - INTERESTS IN REAL PROPERTY *(Not Held By A Business Entity Or Trust)*	☐	☐
Schedule C-1 - INTERESTS IN REAL PROPERTY HELD BY A BUSINESS ENTITY OR TRUST	☐	☐
Schedule C-2 - INVESTMENTS HELD BY A BUSINESS ENTITY OR TRUST	☐	☐
Schedule D - INCOME *(Other Than Loans, Gifts And Honoraria)*	☐	☐
Schedule D-1 - INCOME--TRAVEL PAYMENTS, ADVANCES, REIMBURSEMENTS	☐	☐
Schedule E - INCOME--LOANS *(Received Or Outstanding During The Reporting Period)*	☐	☐
Schedule F - INCOME--GIFTS	☐	☐
Schedule G - INCOME--HONORARIA	☐	☐
Schedule H-1 - COMMISSION INCOME RECEIVED BY BROKERS, AGENTS AND SALESPERSONS	☐	☐
Schedule H-2 - INCOME AND LOANS TO A BUSINESS ENTITY OR TRUST	☐	☐
Schedule H-3 - INCOME FROM RENTAL PROPERTY	☐	☐

NOTE: *AFTER THE SUMMARY PAGE HAS BEEN COMPLETED, PLEASE RECYCLE THOSE SCHEDULES ON WHICH YOU HAVE NO REPORTABLE INTERESTS.*

INFORMATION FOR COMPLETING SCHEDULE A - Investments

(Not Held By A Business Entity Or Trust)

You must report as an investment any financial interest in any business entity located in or doing business in your jurisdiction in which you or your immediate family (your spouse and your dependent children) had a direct, indirect or beneficial interest aggregating $1,000 or more during the reporting period. In addition, if you had a 10% or greater interest in a business entity, please refer to Schedules C-1, C-2 and H-2.

NOTE: Copies of financial reports are not acceptable as attachments to Schedule A because they ordinarily do not contain all of the information required to be disclosed and may include extraneous information.

A business entity is located in or doing business in the jurisdiction if it, a parent or subsidiary, or a related business entity:

- Manufactures, distributes, sells or purchases products or services on a regular basis in the jurisdiction.
- Plans to do business in the jurisdiction.
- Has done business in the jurisdiction within the previous two years.
- Has an interest in real property in the jurisdiction.
- Has an office in the jurisdiction.

The most common types of investments are:

- Sole proprietorships
- Partnerships
- Stocks, bonds, warrants and options including those held in margin or brokerage accounts
- Individual Retirement Accounts (IRAs) which are invested in reportable business entities or real property

You are not required to disclose the following investments:

- Bank accounts, savings accounts and money market accounts
- Insurance policies
- Shares in a credit union
- Government bonds
- Diversified mutual funds registered with the Securities and Exchange Commission (SEC)
- Common trust funds created under California Financial Code Section 1564
- Individual Retirement Accounts (IRAs) invested in non-reportable interests such as insurance policies, diversified mutual funds or government bonds

EXAMPLE

Assume that:

- You have a 50% partnership interest in ABC Land Developers, valued at $250,000, which you did not acquire or dispose of during the reporting period.

NAME OF BUSINESS ENTITY **ABC Land Developers**		VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☒ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST **Partnership**	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	Ownership Interest ☐ Less than 10% ☒ 10% or greater
GENERAL DESCRIPTION OF BUSINESS ACTIVITY **Land Developer**	Date Acquired: _____ Date Disposed: _____	

NAME _____

Schedule A - Investments
(Not Held By A Business Entity Or Trust)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NOTE: YOU MAY BE REQUIRED TO REPORT ON SCHEDULE D ANY SALARY, COMMISSION, DISTRIBUTION OR OTHER INCOME ($250 OR MORE) RECEIVED BY YOU OR YOUR SPOUSE FROM ANY BUSINESS ENTITY LISTED ON SCHEDULE A.

* If you have checked this box, you must report on Schedules C-1 and C-2 any interests in real property and investments held by the business entity. In addition, if your pro rata share of the gross income from any one source was $10,000 or more, you may be required to report the name of that source on Schedule H-2.

☐ **If additional space is needed, check box and attach an additional Schedule A.**

INFORMATION FOR COMPLETING SCHEDULE B - Interests In Real Property
(Not Held By A Business Entity Or Trust)

You must report interests in real property located in your jurisdiction, in which you or your immediate family had a direct, indirect or beneficial interest aggregating $1,000 or more at any time during the reporting period.

Jurisdiction for reporting interests in real property:

Judges, court commissioners, state officeholders and state agency officials and employees have statewide jurisdiction and must report real property located anywhere within the State of California. An interest in real property is in the jurisdiction of a city or county if it is located in, or within two miles of, the city or county, or within two miles of any land owned or used by the city or county.

Interests in real property include:

- A leasehold interest*
- A beneficial ownership interest
- A deed of trust
- An easement
- An option to acquire any of the above
- An interest in real property held by an IRA in which you have a 10% or greater interest

*An interest in a lease on real property is reportable if the value of the leasehold interest is $1,000 or more. The value of the leasehold interest is the total amount of rent owed by you during the reporting period, or on an assuming office statement, during the prior 12 months. No leasehold interest with a value of less than $1,000, nor a month-to-month tenancy, need be reported. When reporting a leasehold interest, you must include the address or other precise location of the leased property and the date upon which the lease became effective, if this occurred during the reporting period.

You are not required to disclose the following interests in real property:

- Any residence which you utilized exclusively as your personal residence, unless it is also a place of business, e.g., family farm, retail business, or vacation rental, in which case you are required to disclose only the value of that portion of the property which is used in connection with your business activities.
- Interests in real property acquired by a blind trust pursuant to FPPC Regulation 18235.

Reporting interests in rental property and income from rental property

If you or your immediate family have an interest in a rental property directly, i.e., not through a business entity, you must report:

- The property on Schedule B;
- Your share of the total amount of rental income received from the property on Schedule D; and
- If your ownership interest is 10% or greater, the name of any tenant who paid rent of which your pro rata share was $10,000 or more on Schedule H-3.

If you or your immediate family own a 10% or greater interest in a business entity, such as a partnership or joint venture, which owns rental property, do not use this schedule. Report:

- The business entity on Schedule A;
- The property held by the business entity on Schedule C-1;
- Your share of the total amount of income, including rents, received from the business entity on Schedule D;
- The name of any client or customer who provided rental income to the business entity of which your pro rata share was $10,000 or more on Schedule H-2.

EXAMPLE

Assume that:

- You own property located at 14738 Spruce Street, Little Town, which you rent to Sylvan Taylor. The fair market value of your interest in the property is $85,000 and you did not acquire or dispose of the property during the reporting period.

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
14738 Spruce Street	Little Town	☐ $1,000-$10,000 ☒ $10,001-$100,000 ☐ Over $100,000
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST Ownership		
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is ☐ Less than 10% ☒ 10% or greater

NAME _____

Schedule B - Interests In Real Property
(Not Held By A Business Entity Or Trust)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year: Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is	☐ Less than 10% ☐ 10% or greater*
STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year: Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is	☐ Less than 10% ☐ 10% or greater*
STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year: Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is	☐ Less than 10% ☐ 10% or greater*
STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year: Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is	☐ Less than 10% ☐ 10% or greater*

NOTE: You may be required to report on Schedule D any income ($250 or more) received by you or your spouse from rental property listed on Schedule B.

* If you have a 10% or greater interest in a rental property, you may have additional reporting requirements on Schedule H-3.

☐ **If additional space is needed, check box and attach an additional Schedule B.**

INFORMATION FOR COMPLETING SCHEDULE C-1 - Interests In Real Property Held By A Business Entity Or Trust

During the reporting period, did you or your immediate family have a 10% or greater interest in a business entity or in a trust (including a living trust)?

NO-- You are not required to complete Schedule C-1.

Reporting Real Property Held By A Business Entity:

YES-- You must report interests in real property held by the business entity if your pro rata share of an interest in real property is $1,000 or more and the real property is located in your jurisdiction.

You also must report the business entity holding the interests in real property on Schedule A.

Reporting Real Property Held By A Trust (Including a Living Trust):

YES-- You must report interests in real property held by the trust if your pro rata share of an interest in real property is $1,000 or more and the real property is located in your jurisdiction. Pursuant to FPPC Regulation 18234, you have an interest in a trust if you are:

1. *A maker and:*
   a. can revoke or terminate the trust; or
   b. have retained any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
   c. have retained any power of appointment including the power to change the beneficiaries.
2. *A beneficiary and:*
   a. presently receive income; or
   b. have an irrevocable future right to receive income or principal.

If you are only a trustee, you do not have a reportable interest in the trust.

EXAMPLE

Assume that:

- You have a 50% partnership interest in ABC Land Developers worth $250,000.
- ABC Land Developers owns real property worth $300,000 located within your jurisdiction. The real property was not acquired or disposed of during the reporting period.

You must report:

- Your 50% interest in ABC Land Developers on Schedule A. The real property held by ABC Land Developers must be reported on Schedule C-1 as follows:

Name of Business Entity Or Trust Holding The Real Property: **ABC Land Developers**

Your investment in this business entity must be reported on Schedule A-Investments.

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	
AP 029 589202	**Little Town**	
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST **Ownership**		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☒ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

NAME _____

Schedule C-1 - Interests In Real Property Held By A Business Entity Or Trust

(SEE INSTRUCTIONS ON PRECEDING PAGE)

Name of Business Entity Or Trust Holding The Real Property: _____

Your investment in this business entity must be reported on Schedule A-Investments.

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

☐ **If additional space is needed, check box and attach an additional Schedule C-1.**

INFORMATION FOR COMPLETING SCHEDULE C-2 -
Investments Held By A Business Entity Or Trust

During the reporting period, did you or your immediate family have a 10% or greater interest in a business entity or in a trust (including a living trust)?

NO-- You are not required to complete Schedule C-2.

Reporting Investments Held By A Business Entity:

YES-- You must report investments held by the business entity if your pro rata share of the investment is $1,000 or more and the investment is in a business entity located in, or doing business in, your jurisdiction.

You also must report the business entity holding such investments on Schedule A.

Reporting Investments Held By A Trust (Including a Living Trust):

YES-- You must report investments held by the trust if your pro rata share of the investment is $1,000 or more and the investment is in a business entity located in, or doing business in, your jurisdiction. Pursuant to FPPC Regulation 18234, you have an interest in a trust if you are:

1. *A maker and:*
   a. can revoke or terminate the trust; or
   b. have retained any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
   c. have retained any power of appointment including the power to change the beneficiaries.
2. *A beneficiary and:*
   a. presently receive income; or
   b. have an irrevocable future right to receive income or principal.

If you are only a trustee, you do not have a reportable interest in the trust.

NOTE: Copies of financial reports are not acceptable as attachments to Schedule C-2 because they ordinarily do not contain all of the information required to be disclosed and may include extraneous information.

EXAMPLE

Assume that:

- ABC Land Developers owns common stock worth $3,000 in Ajax Building Materials, which does business in your jurisdiction. The investment was not acquired or disposed of during the reporting period.

You must report:

- Your 50% interest in ABC Land Developers on Schedule A. The common stock held by ABC Land Developers must be reported on Schedule C-2 as follows:

Name of Business Entity Or Trust Holding The Investment(s): **ABC Land Developers**

Your investment in this business entity must be reported on Schedule A-Investments.

NAME OF BUSINESS ENTITY **Ajax Building Materials**		FAIR MARKET VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP **Common Stock**	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	[X] $1,000-$10,000 [ ] $10,001-$100,000 [ ] Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY **Manufactures Building Supplies**	Date Acquired: _____ Date Disposed: _____	

NAME _____

Schedule C-2 - Investments Held By A Business Entity Or Trust

(SEE INSTRUCTIONS ON PRECEDING PAGE)

Name of Business Entity Or Trust Holding The Investment(s): _____

Your investment in this business entity must be reported on Schedule A-Investments.

NAME OF BUSINESS ENTITY		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	
NAME OF BUSINESS ENTITY		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	
NAME OF BUSINESS ENTITY		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	
NAME OF BUSINESS ENTITY		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	
NAME OF BUSINESS ENTITY		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	

☐ **If additional space is needed, check box and attach an additional Schedule C-2.**

INFORMATION FOR COMPLETING SCHEDULE D - Income
(Other Than Loans, Gifts And Honoraria)

You must report your gross income and your community property interest in your spouse's gross income. Gross income is the total amount of income before deducting expenses, losses or taxes. Income aggregating $250 or more received from any source located in or doing business in your jurisdiction must be disclosed. Under the Political Reform Act, reportable income is defined differently than income for tax purposes.

A source of income is located in or doing business in the jurisdiction if it, a parent or subsidiary, or a related business entity:

- Manufactures, distributes, sells or purchases products or services on a regular basis in the jurisdiction.
- Plans to do business in the jurisdiction.
- Has done business in the jurisdiction within the previous two years.
- Has an interest in real property in the jurisdiction.
- Has an office in the jurisdiction.

Reportable income includes:

- Commission income. (See Schedule H-1-Commission Income.)
- Income from a business entity.
- Your pro rata share of the total gross payments received by a business entity (including rental property) or a trust in which you or your spouse had an ownership interest of 10% or more.
- Your community property interest ***(50%)*** in your spouse's income. If your spouse is self-employed, you may be required to report the business entity on Schedule A.
- Proceeds from any sale, including the sale of a house or car. (The total sale price is reportable regardless of any obligation you might have to pay on loans secured by the property.)
- Rental income.
- Prizes or awards not disclosed as gifts.
- Forgiveness of a loan or other indebtedness.
- Loan payments received by you.
- Salary/wages, per diem, reimbursement for expenses. (See exclusions below. Also see Schedule D-1 - Income -- Travel Payments, Advances, Reimbursements.)

You are not required to disclose the following types of income:

- Salary or reimbursements for expenses and per diem from a federal, state or local government agency.
- Reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization.
- Campaign contributions.
- A devise or inheritance. ***(However, inheritance of an investment or an interest in real property may be required to be reported on Schedule A or B.)***
- Dividends, interest or other return on a security which is registered with the Securities and Exchange Commission.
- Payments received under an insurance policy.
- Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency.
- Income of dependent children.
- Alimony or child support payments.
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

EXAMPLE

Assume that:

- You received $10,800 in total rental income from your rental property, which is in your jurisdiction.
- Your spouse received $25,000 in salary from General Telephone Company, a communications firm which provides services in your jurisdiction.

GROSS INCOME RECEIVED:

NAME OF THE SOURCE OF INCOME: **Rental Property** ADDRESS: **14738 Spruce Street, Little Town, CA** NATURE OF BUSINESS, IF ANY: **Rental Property** DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED: **Rents**	☐ $250-$1,000 ☐ $1,001-$10,000 ☒ Over $10,000
NAME OF THE SOURCE OF INCOME: **General Telephone Company** ADDRESS: **567 Main Street, Little Town, CA** NATURE OF BUSINESS, IF ANY: **Telephone Services** DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED: **Spouse's Salary**	☐ $250-$1,000 ☐ $1,001-$10,000 ☒ Over $10,000

NAME _____

Schedule D - Income
(Other Than Loans, Gifts And Honoraria)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	GROSS INCOME RECEIVED:
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000

☐ **If additional space is needed, check box and attach an additional Schedule D.**

INFORMATION FOR COMPLETING SCHEDULE D-1 - Income -- Travel Payments, Advances, Reimbursements

You must report payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence.

In addition to disclosing the source, date, amount, and purpose of the payment, check the box to indicate if the payment was a gift or income. To determine if travel payments are gifts or income:

- Travel payments are gifts if you did not provide services which were equal to or greater in value than the payments received. You must disclose gifts aggregating $50 or more from a single source during the period covered by the statement.
- Travel payments are income if you provided services which were equal to or greater in value than the payments received. You must disclose income aggregating $250 or more from a single source during the period covered by the statement.

Gov. Code Section 82028 provides that any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

You are not required to disclose on Schedule D-1 the following types of travel payments:

- Travel payments received from your employer in the normal course of your employment, or from any state, local, or federal government agency for which you provided equal or greater consideration for the payments received.
- Payment or reimbursement for transportation within California in connection with an event at which you gave a speech, participated in a panel or seminar or performed a similar service.
- Food, beverages, and necessary accommodations received directly in connection with an event held inside or outside California at which you gave a speech, participated in a panel, or provided a similar service.
- Travel payments received from a bona fide educational, academic, or charitable organization for which you provided equal or greater consideration for the payments received.

IMPORTANT: When reporting travel, you should be specific in disclosing the purpose of your travel. Certain travel payments are reportable gifts, but are not subject to the gift limits. Failure to specify the purpose of your travel may result in misinterpretation and be perceived as a gift violation. See the Commission's Fact Sheet on Gifts, Honoraria and Travel (1/96), which can be obtained from your filing officer or the FPPC at (916) 322-5660.

EXAMPLE

Assume that:

- You attended a trade show in San Francisco, CA. The American Manufacturers Assn. paid $175 for your travel and accommodations.

	DATE(S): (mo, day & yr)	AMOUNT(S):	PURPOSE AND LOCATION OF TRAVEL:
NAME OF SOURCE: **American Manufacturers Assn.** ADDRESS: **77 Green Lane, Mudville, CA** NATURE OF BUSINESS ACTIVITY, IF ANY: **Trade Association** TYPE OF PAYMENT (CHECK ONE): [X] GIFT [ ] INCOME	**5/15/95**	**$175**	**Transportation and Accommodations to Attend Trade Show San Francisco, CA**

NAME _____

Schedule D-1 - Income -- Travel Payments, Advances, Reimbursements

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	DATE(S): (mo, day & yr)	AMOUNT(S):	PURPOSE AND LOCATION OF TRAVEL:
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			

☐ **If additional space is needed, check box and attach an additional Schedule D-1.**

INFORMATION FOR COMPLETING SCHEDULE E - Income -- Loans
(Received Or Outstanding During The Reporting Period)

You must report loans, including real estate loans and margin accounts, received by you or your spouse aggregating $250 or more from a single source which is located in, or doing business in, your jurisdiction. All reportable loans received or outstanding during the reporting period must be disclosed. If you have received more than one loan from a single source, you must aggregate the amounts to determine if you have received $250 or more from a single source. Report each loan separately. A forgiven loan is a gift and must be reported on Schedule F-Gifts.

A source of income is located in or doing business in the jurisdiction if it, a parent or subsidiary, or a related business entity:

- Manufactures, distributes, sells or purchases products or services on a regular basis in the jurisdiction.
- Plans to do business in the jurisdiction.
- Has done business in the jurisdiction within the previous two years.
- Has an interest in real property in the jurisdiction.
- Has an office in the jurisdiction.

You are not required to disclose the following loans:

- Any loan from a commercial lending institution used to purchase, refinance the purchase of, or for improvements to, your principal place of residence if the loan was made in the lender's regular course of business on terms available to members of the public without regard to official status.
- Loans from a commercial lending institution in the normal course of business which, in the aggregate, did not exceed $10,000 at any time during the reporting period.
- Any indebtedness created as part of a retail installment or credit card transaction made in the creditor's regular course of business on terms available to the public without regard to official status if the aggregate amount owed to the creditor did not exceed $10,000 at any time during the reporting period.
- Any loan from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, except that a loan from any such person is reportable if the person is acting as an intermediary or agent for any person not covered by this provision.

EXAMPLE

Assume that:

- You received an equity loan in the amount of $15,000 from Greatest Savings and Loan on your principal place of residence to consolidate your bills and to take a vacation.
- You received a personal loan from a friend, who resides in the jurisdiction, in the amount of $1,500.

You must report:

- The equity loan on your principal place of residence because the loan amount was over $10,000 and the money was not used to refinance or improve your principal residence.
- The loan from your friend.

AMOUNT OF HIGHEST BALANCE DURING THE REPORTING PERIOD:

NAME OF LENDER: Greatest Savings & Loan		☐ $250-$1,000
ADDRESS: 123 Main Street, Little Town		☐ $1,001-$10,000
NATURE OF BUSINESS, IF ANY: Lending Institution	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☒ NO	☒ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address): Personal Residence ☐ NONE		INTEREST RATE: 8% ☐ NONE
NAME OF LENDER: Martin Smith		☐ $250-$1,000
ADDRESS: 567 A Street, Little Town		☒ $1,001-$10,000
NATURE OF BUSINESS, IF ANY: Construction	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☒ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address): ☒ NONE		INTEREST RATE: 7% ☐ NONE

NAME _____

Schedule E - Income -- Loans
(Received or Outstanding During the Reporting Period)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

AMOUNT OF HIGHEST BALANCE DURING THE REPORTING PERIOD:

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

☐ **If additional space is needed, check box and attach an additional Schedule E.**

INFORMATION FOR COMPLETING SCHEDULE F - Income -- Gifts

"Gift" means anything of value, whether tangible or intangible, for which equal or greater value is not provided. You must disclose gifts with an aggregate value of $50 or more received during the reporting period from a single source. **Gifts are reportable without regard to where the donor is located.** Any number of gifts from one person, the values of which add up to $50 or more during the reporting period, must be disclosed.

It is the acceptance of a gift, and not the ultimate use to which it is put, that imposes your reporting obligation. Therefore, except as noted below, you must report a gift even if you never make use of it or if you give it away to another person.

If the exact amount of a gift is not known, you must make a good faith estimate of the item's fair market value. Listing the value of the gift as "over $50" or "value unknown" is not adequate disclosure. In addition, if you receive a gift through an intermediary, you must disclose the name, address and business activity of both the donor and the intermediary.

In most cases, the full amount of a gift made to you and your spouse must be counted to determine if the gift must be disclosed. However, for wedding gifts, only one-half of the value of each gift is attributable to you, unless the gift is intended exclusively for your use and enjoyment.

You are <u>not</u> required to disclose the following types of gifts:

- Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- Gifts from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, provided that a gift from any such person must be disclosed if the person is acting as an agent or intermediary for a reportable source of income.
- Gifts of hospitality involving food, drink or occasional lodging provided in an individual's home.
- Gifts equal in value exchanged between you and an individual, other than a lobbyist, on holidays, birthdays, or similar occasions.
- Gifts of informational material provided to assist you in the performance of your official duties, such as books, pamphlets, reports, calendars or periodicals.
- A bequest or inheritance. **(However, an inheritance of an investment or an interest in real property may be required to be reported on Schedule A or B.)**
- Personalized plaques and trophies with an individual value of less than $250.
- Campaign contributions.
- Food, beverage, and necessary accommodations received directly in connection with an event at which you gave a speech, participated in a panel, or provided a similar service. However, any extra benefits (such as an extra night's lodging) which were not provided directly in connection with your participation in the event must be reported as a gift.
- Tickets to a fundraising event for a 501(c)(3) organization.
- Tickets to a political fundraiser.
- A pass or ticket which provides a <u>one time</u> admission to an event (theater performance, sporting event) that is not used and is not transferred to another person. Commission Regulation 18946.1 provides a method for determining the value of a ticket or pass that is used or transferred to another person and for determining the value of a pass or tickets which provide repeated admission to facilities or services.
- Gifts provided directly to members of your immediate family unless you receive direct benefit from the gift or you exercise discretion and control over the use or disposition of the gift.

EXAMPLE

Assume that:

- You received 2 tickets to a professional baseball game from Valley Pipe Systems.

NAME OF DONOR / ADDRESS / NATURE OF BUSINESS, IF ANY	DATE(S) RECEIVED: (mo, day & yr)	VALUE(S):	DESCRIPTION OF GIFT(S):
Valley Pipe Systems **200 E. Fifth, Hometown** **Manufactures Irrigation & Plumbing Supplies**	**March 1, 1995**	**$50**	**Tickets to Hometown A's Baseball Game**

NAME _____

Schedule F - Income -- Gifts

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	DATE(S) RECEIVED: (mo. day & yr)	VALUE(S):	DESCRIPTION OF GIFT(S):
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			

☐ **If additional space is needed, check box and attach an additional Schedule F.**

INFORMATION FOR COMPLETING SCHEDULE G - Income -- Honoraria

"Honorarium" means a payment for making a speech, publishing an article, or attending any public or private conference, convention, meeting, social event, meal, or like gathering. You must report all honoraria aggregating $50 or more received from a single source during the reporting period.

You are not required to disclose the following benefits received directly in connection with an event at which you gave a speech, participated in a panel or performed a similar service:

- Free admission
- Accommodations directly in connection with the event
- Food and beverages at the event
- Similar nominal benefits
- Reimbursement or payment for travel within California

However, any extra benefits (such as an extra night's lodging) which were not provided directly in connection with your participation in the event must be reported as a gift on Schedule D-1 or F. Any payment received for travel outside California must be disclosed on Schedule D-1.

IMPORTANT

Honoraria Prohibition: Refer to page 1 of the Form 721 instructions for an explanation of the prohibitions on receiving honoraria by state and local elected officials and candidates for state and local offices.

EXAMPLE

Assume that:

- Five months prior to assuming office you gave a speech at the annual convention of the American Growers Association in Golden, California. The Association provided you the following:
  - -- $300 for speaking
  - -- $100 to reimburse your travel expenses
  - -- Dinner at the event
- You are not required to disclose:
  - -- The $100 reimbursement for travel in California
  - -- The value of the dinner

NAME OF SOURCE	DATE(S): (mo. day & yr)	VALUE(S):	DESCRIPTION OF SERVICES:
American Growers Association ADDRESS 1526 States Ave., Golden, CA NATURE OF BUSINESS ACTIVITY, IF ANY Produce Growers	1/15/95	$300	Speaker at Annual Convention

NAME _____

Schedule G - Income -- Honoraria

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	DATE(S): (mo, day & yr)	AMOUNT(S):	DESCRIPTION OF SERVICES:
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			

☐ **If additional space is needed, check box and attach an additional Schedule G.**

INFORMATION FOR COMPLETING SCHEDULE H-1 -- Commission Income

During the reporting period, did you or your spouse receive "commission income" for services rendered as a broker, agent, or salesperson?

NO – You are not required to complete Schedule H-1.

YES-- You must provide the name of each individual or entity which:

- Is located in, or doing business in, your jurisdiction; ***and***
- Was a source of commission income, provided that your pro rata share from that individual or entity was $10,000 or more.

If you or your spouse received commission income as a broker, agent, or salesperson, you must disclose the names of sources of commission income if your pro rata share of the gross commission income amounts to $10,000 or more from a single source during the reporting period. ***No ownership interest in a business entity is necessary to require disclosure or disqualification under this provision.***

"Commission income" means gross payments received as a result of services rendered as a broker, agent, or salesperson. Persons who must report commission income include: insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission. (See example below.)

NOTE: If you have reported yourself or your employer as a source of commission income on Schedule D, you are not required to itemize yourself or your employer as a source of income on Schedule H-1. Also, if your pro rata share of commission income from a single source is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report it.

EXAMPLE

Assume that:

- You are an agent for Smith and Jones Insurance Company. You sold two Businessmen's Insurance Company policies to XYZ Company. You received commission income of $5,000 from the first transaction and $6,000 from the second transaction.
- Your spouse is a real estate broker for Goldwater Realty and received a commission of $20,000 from the Grand Company.

You must report:

- Both XYZ Company and Businessmen's Insurance Company as sources of commission income because each was a source of $10,000 or more. Smith and Jones is disclosed on Schedule D as a source of commission income, and on Schedule H-1 as the business entity through which you received the income.
- Grand Company, your spouse's client, because your community property share (50%) of the gross receipts amounted to $10,000 and would meet the reporting threshold. You would also report your community property share of your spouse's income from Goldwater Realty on Schedule D as a source of income.

NAME OF BUSINESS ENTITY
Smith and Jones Insurance Company
NAMES OF SOURCES OF INCOME
XYZ Company
Businessmen's Insurance Company

NAME OF BUSINESS ENTITY
Goldwater Realty
NAMES OF SOURCES OF INCOME
Grand Company

NAME _____

Schedule H

(SEE INSTRUCTIONS ON PRECEDING PAGE)

Schedule H-1
Commission Income Received By Brokers, Agents And Salespersons

NAME OF BUSINESS ENTITY	
NAMES OF SOURCES OF INCOME	

Schedule H-2
Income And Loans To A Business Entity Or Trust

NAME OF BUSINESS ENTITY OR TRUST	ADDRESS OF BUSINESS ENTITY OR TRUST
NATURE OF BUSINESS, IF ANY	
NAMES OF SOURCES OF INCOME AND LOANS TO THE BUSINESS ENTITY OR TRUST	

Schedule H-3
Income From Rental Property

You must disclose the **name(s)** of any renter(s) who made rent payments, provided that your pro rata share of such receipts from any one renter was **$10,000** or more.

ADDRESS OF RENTAL PROPERTY	CITY
NAMES OF RENTERS	
ADDRESS OF RENTAL PROPERTY	CITY
NAMES OF RENTERS	

☐ **If additional space is needed, check box and attach additional schedules.**

INFORMATION FOR COMPLETING SCHEDULE H-2--
Income And Loans To A Business Entity Or Trust

If, during the reporting period, you and your spouse owned an aggregate interest of 10% or more in any business entity or a trust, you must provide the name of each individual or entity which:

- Is located in, or is doing business in, your jurisdiction; and
- Was a source of income to the business entity or trust, provided that your pro rata share of such payments or receipts was $10,000 or more. Income includes, but is not limited to, payments received for legal or other services, rental income, loans received or outstanding, forgiveness or payment of indebtedness, and retail sales.

IMPORTANT: The requirement to report sources of income to a business entity or trust is determined by the location of the source of the loan or income--not by the location of the business entity or trust which received the loan or income.

If the business entity in which you have a 10% or greater interest is located in or doing business in your jurisdiction, it must also be reported on Schedule A and you may be required to complete Schedules C-1 and C-2. Your pro rata share of the gross income to the business entity must be reported on Schedule D.

FPPC Regulation 18740 provides a procedure for obtaining an exemption from the disclosure requirement of clients' names which are legally recognized as privileged under California law. You may obtain a copy of Regulation 18740 by contacting the Fair Political Practices Commission.

NOTE: If your pro rata share of income or a loan to a business entity or trust is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income or loan, even though you are not required to report it.

EXAMPLE

Assume that:

- During the reporting period, ABC Land Developers, in which you have a 50% partnership interest, received a loan from the Little Town Bank in the amount of $30,000. The bank has a branch which is located in your jurisdiction.
- Your spouse owns 100% of a law firm. A client paid your spouse $20,000 during the reporting period. This client is doing business in your jurisdiction.

You must report:

- The loan to ABC Land Developers from the Little Town Bank because your pro rata share (50%) of the $30,000 loan is $15,000 and meets the $10,000 reporting threshold.
- Your spouse's law firm and its client because your pro rata share (50%) of the $20,000 paid to the law firm is $10,000 and meets the reporting threshold.

NAME OF BUSINESS ENTITY OR TRUST	ADDRESS OF BUSINESS ENTITY OR TRUST
ABC Land Developers	**5744 Tenth Street, Little Town**
NATURE OF BUSINESS, IF ANY **Land Developer**	
NAMES OF SOURCES OF INCOME AND LOANS TO THE BUSINESS ENTITY OR TRUST **Little Town Bank**	
NAME OF BUSINESS ENTITY OR TRUST	ADDRESS OF BUSINESS ENTITY OR TRUST
Smith and Jones	**1261 High Street, Little Town**
NATURE OF BUSINESS, IF ANY **Law Firm**	
NAMES OF SOURCES OF INCOME AND LOANS TO THE BUSINESS ENTITY OR TRUST **Joseph Brown and Associates**	

INFORMATION FOR COMPLETING SCHEDULE H-3 -
Income From Rental Property

If, during the reporting period, you and your spouse owned an aggregate interest of 10% or more in any rental property, you must provide the name of each individual or entity which made rent payments, provided that your pro rata share of the receipts was $10,000 or more.

IMPORTANT: The requirement to report sources of rental income is determined by the location of the source of income--not by the location of the rental property.

If the rental property in which you have a 10% or greater interest is located in your jurisdiction, it must also be reported on Schedule B. Your pro rata share of the gross rental income from the property must also be reported on Schedule D.

NOTE: If your pro rata share of rental income from a single source is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report it.

EXAMPLE

Assume that:

- You own a home in your jurisdiction from which rental income was received from a single tenant in the amount of $10,800.
- You own rental property which is located in Sierra Springs, which is not in your jurisdiction. Your rental tenant owns J.R. Car Dealership which is located in your jurisdiction.

You must report:

- The name of the rental tenant who paid rent in the amount of $10,000 or more to rent the property.
- The name of the rental tenant (John Roberts) who paid rent in the amount of $10,000 or more.

ADDRESS OF RENTAL PROPERTY	CITY
14738 Spruce Street	**Little Town**
NAMES OF RENTERS **Sylvan Taylor**	
ADDRESS OF RENTAL PROPERTY **15255 Maple Street**	CITY **Sierra Springs**
NAMES OF RENTERS **John Roberts**	

Fair
Political
Practices
Commission
Ravi Mehta, Chairman

K

FORM 730
1995-96

Officials & Employees
Designated by a
Conflict of Interest Code

Statement of Economic Interests

P.O. Box 807 • Sacramento, CA 95812 • (916) 322-5660

IMPORTANT

Prohibitions: Gifts and Honoraria

Gift Prohibitions:

State and local government officials and employees who are designated in an agency's conflict of interest code to file statements of economic interests may not accept a gift or gifts aggregating more than $280 in a calendar year from a single source. The gift limit is applicable only if the official or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

In addition, state officials and employees may not accept a gift or gifts aggregating more than $10 in a calendar month from a lobbyist or lobbying firm registered with the Secretary of State to lobby the official's or employee's agency. Legislative employees may not accept a gift or gifts aggregating more than $10 in a calendar month from any lobbyist or lobbying firm.

Honorarium Prohibition:

State and local government officials and employees who are designated in an agency's conflict of interest code to file statements of economic interests may not accept any honorarium for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. The prohibition is applicable only if the official or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

The $280 gift limit and honorarium prohibition do not apply to a part-time member of the governing board of a public institution of higher education unless the member is also an elected official.

For detailed information, see the Commission's Fact Sheet on Gifts, Honoraria and Travel (1/96). The Fact Sheet can be obtained from your filing officer or the Fair Political Practices Commission at (916) 322-5660.

Disqualification

Public officials are, under certain circumstances, required to disqualify themselves from making, participating in, or attempting to influence governmental decisions which will affect any of their financial interests, not just those which they are required to disclose on a statement of economic interests.

For assistance in determining when disqualification is required, please contact the FPPC Legal Division at (916) 322-5660.

Post-Governmental Employment

Certain state agency officials who leave office are subject to restrictions on representing clients or employers before their former agencies.

For assistance concerning restrictions on post-governmental employment, please contact the FPPC Legal Division at (916) 322-5660.

(continued on next page)

Enforcement

The filing officer for Form 730 may impose penalties for statements of economic interests which are filed late. The fine is $10 per day, beginning the day after the filing deadline, up to a maximum of $100. Late filing penalties can be reduced or waived under certain circumstances.

In addition, the Fair Political Practices Commission may initiate investigations with respect to any suspected violation of the Political Reform Act. Other law enforcement agencies (the Attorney General or district attorney) may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement proceedings which could result in the imposition of monetary penalties of up to $2,000 per violation. In lieu of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General or district attorney) where the measure of damages for most violations is the amount or value not properly reported. Persons who violate the conflict of interest disclosure provisions of the Political Reform Act can also be subject to discipline by their agency, including dismissal.

Finally, a knowing or willful violation of any provision of the Political Reform Act is a misdemeanor. Persons convicted of a misdemeanor may be disqualified for four years from the date of the conviction from serving as a lobbyist or running for elective office, in addition to other penalties which may be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

The Fair Political Practices Commission has a toll-free telephone number to report violations. The number is 1-800-561-1861.

TYPES OF STATEMENTS AND FILING DEADLINES

ASSUMING OFFICE STATEMENT:

(For Newly-Elected and Newly-Appointed Officials ONLY)

Appointed Position Not Subject to Confirmation by the State Senate--File no later than **30 days** after assuming your position. Your assuming office date is the date you are sworn in or otherwise authorized to serve in the position.

Appointed Position Subject to Confirmation by the State Senate--File no later than **30 days** after appointment or nomination, whichever is earlier.

Elected Official--File no later than **30 days** after assuming office. Your assuming office date is the date you are sworn in or otherwise authorized to serve in the position.

-- Disclose all reportable investments, interests in real property and business positions of the type described in your disclosure category held on the date you assumed your office or position (Schedules A, B, C-1, C-2 and G). In addition, disclose reportable income of the type described in your disclosure category received during the 12 months prior to the date you assumed your office or position (Schedules D, D-1, E, F, and H-1 through H-3).

Exception:

- An official who is re-elected or re-appointed without a break in service is not required to file an assuming office statement. Instead, you should file the next annual statement.

ANNUAL STATEMENT:

- File at the time prescribed in your agency's conflict of interest code (April 1 for most filers).

-- Disclose all reportable investments, interests in real property, business positions held and income received as described in your disclosure category. This statement covers the period January 1, 1995 through December 31, 1995.

Exception:

- If you assumed an office or position between October 1, 1995 and December 31, 1995, and filed an assuming office or initial statement, you are not required to file an annual statement in 1996. Your next statement will be due in 1997. This statement will cover the day after you assumed your office or position through December 31, 1996. This exception does not apply if your annual statement is due after April 1 (e.g., your Form 730 is due June 1, 1996).

LEAVING OFFICE STATEMENT:

- File no later than **30 days** after leaving your office or position.

-- Disclose all reportable investments, interests in real property, business positions held and income received as described in your disclosure category. This statement will cover the day after the closing date of your last statement through the date of leaving your office or position.

-- If you leave an office or position between January 1 and the filing deadline of your annual statement, you may combine your leaving office statement and your annual statement. The statement is due no later than the filing deadline of your annual statement or 30 days after leaving your office or position, whichever is earlier.

To file a combined leaving office statement and annual statement, check the boxes on the cover page for both types of statements, complete the space indicating the date you left your office or position, and report the interests described in your disclosure category which you held during the period.

- The reporting period begins on:
  The day after the closing date of your previous annual statement, in most cases this date is January 1; or

  If you assumed office during 1995, the period will begin the day after you assumed office.

  The reporting period ends on:
  The day you left office.

Exception:

- If you leave an office or position and assume another office or position within the same jurisdiction on the same day, you are not required to file leaving office and assuming office statements. Instead, you should file the next annual statement.

(continued on next page)

TYPES OF STATEMENTS

INITIAL STATEMENT:

If your agency has a newly-adopted or amended conflict of interest code--File no later than **30 days** after the effective date of the conflict of interest code or amendment, whichever is applicable.

- Disclose all reportable investments, interests in real property and business positions of the type described in your disclosure category held on the date your agency's conflict of interest code became effective or your position was newly designated (Schedules A, B, C-1, C-2 and G). In addition, disclose reportable income of the type described in your disclosure category received during the 12 months prior to the date your agency's conflict of interest code became effective or your position was newly designated (Schedules D, D-1, E, F and H-1 through H-3).

CANDIDATE STATEMENT:

- File no later than the final filing date for your declaration of candidacy (if required by the conflict of interest code of the agency for which you are seeking elective office).
- The conflict of interest code specifies the types of interests you must disclose.

Exception:

- If you have filed an assuming or annual statement for the same jurisdiction within 60 days before filing a declaration of candidacy, you are not required to file a candidate statement.

WHERE TO FILE

All statements, except those filed by State Senate and Assembly staff members, are filed with your own agency, board or commission unless otherwise specified in your agency's conflict of interest code.

State Senate and Assembly staff members file their statements directly with the Fair Political Practices Commission.

IMPORTANT: You must file an originally signed statement of economic interests with each agency, board or commission with which you hold a designated position covered by a conflict of interest code.

INSTRUCTIONS FOR COMPLETING THE COVER PAGE

- Before completing this form, contact your agency, board or commission to obtain a copy of your disclosure category which outlines the types of interests you must disclose.
- Enter your name, mailing address, and daytime telephone number. You may list your home or business address.
- Indicate the name of the agency under whose conflict of interest code you have been designated to file this statement, and your division, unit, board or bureau within that agency, if applicable.

  Expanded Statement: A person holding two or more positions may complete one statement covering the disclosure requirements for each position and file a copy with each agency. Each copy must contain an original signature. Reportable interests for each position must be disclosed. (Contact your filing officer for further information.)
- Check the box(es) to indicate the type of statement being filed. If filing an assuming office statement, a leaving office statement, or an initial statement, enter the appropriate date.
- Complete the verification by entering the date and place signed, and sign the statement. **An unsigned statement is considered an unfiled statement and you may be subject to late filing penalties.**
- Statements must be completed in ink or typed. Statements completed in pencil are not acceptable.
- Faxed statements: A statement containing 30 pages or less may be faxed by the deadline. However, the original statement must be sent by first class mail or guaranteed overnight delivery service within 24 hours of the deadline.
- The Form 730 and Instructions are available on the Internet. The address is http://www.fppc.ca.gov/fppc/

FORM 730

Statement of Economic Interests
For Designated Employees

A PUBLIC DOCUMENT

1995/96

(Type or Print in Ink)

Date Received by Filing Official

NAME OF FILER	POSITION TITLE
NAME OF AGENCY	NAME OF DIVISION, UNIT, BOARD, BUREAU, ETC. (IF APPLICABLE)
MAILING ADDRESS	DAYTIME TELEPHONE NUMBER ( )

IF YOU ARE FILING AN EXPANDED STATEMENT: _____ Name of Agency _____ Office/Position

TYPE OF STATEMENT:

☐ ***ASSUMING OFFICE STATEMENT***

Date Assumed Office or, if you are an Appointed Official subject to confirmation, enter the Date Appointed or Nominated: _____ mo. day yr.

☐ ***ANNUAL STATEMENT***

The period covered is ***January 1, 1995 through December 31, 1995.***

☐ ***LEAVING OFFICE STATEMENT***

The period covered is ***January 1, 199 ____ through the date you left your designated position.***

Date left designated position: _____ mo. day yr.

☐ ***INITIAL STATEMENT*** (Complete this section ONLY if your position has been recently designated or if you are filing under a new conflict of interest code for your agency.)

Effective date of code: _____ mo. day yr.

☐ ***CANDIDATE STATEMENT*** (Complete only if required by the conflict of interest code for the jurisdiction in which you are seeking elective office.)

VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed the statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ (month, day), 19 ____ (year), at _____ (city and state)

SIGNATURE _____

FORM 730

NAME _____

Check the appropriate box for each schedule. Complete this summary page after you have carefully reviewed your disclosure category, contained in your agency's conflict of interest code, to determine what types of interests must be reported. Instructions are also provided for each schedule. If a schedule does not apply to your disclosure category, check the box "No Reportable Interests."

	SCHEDULE COMPLETED AND ATTACHED	NO REPORTABLE INTERESTS
Schedule A - INVESTMENTS *(Not Held By A Business Entity Or Trust)*	☐	☐
Schedule B - INTERESTS IN REAL PROPERTY *(Not Held By A Business Entity Or Trust)*	☐	☐
Schedule C-1 - INTERESTS IN REAL PROPERTY HELD BY A BUSINESS ENTITY OR TRUST	☐	☐
Schedule C-2 - INVESTMENTS HELD BY A BUSINESS ENTITY OR TRUST	☐	☐
Schedule D - INCOME *(Other Than Loans and Gifts)*	☐	☐
Schedule D-1 - INCOME--TRAVEL PAYMENTS, ADVANCES, REIMBURSEMENTS	☐	☐
Schedule E - INCOME--LOANS *(Received Or Outstanding During The Reporting Period)*	☐	☐
Schedule F - INCOME--GIFTS	☐	☐
Schedule G - BUSINESS POSITIONS	☐	☐
Schedule H-1 - COMMISSION INCOME RECEIVED BY BROKERS, AGENTS AND SALESPERSONS	☐	☐
Schedule H-2 - INCOME AND LOANS TO A BUSINESS ENTITY OR TRUST	☐	☐
Schedule H-3 - INCOME FROM RENTAL PROPERTY	☐	☐

AFTER THE SUMMARY PAGE HAS BEEN COMPLETED, PLEASE RECYCLE THOSE SCHEDULES ON WHICH YOU HAVE NO REPORTABLE INTERSTS.

INFORMATION FOR COMPLETING SCHEDULE A - Investments
(Not Held By A Business Entity Or Trust)

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INVESTMENTS YOU MUST DISCLOSE.

You must report as an investment any financial interest in any business entity located in or doing business in your jurisdiction in which you or your immediate family (your spouse and your dependent children) had a direct, indirect or beneficial interest aggregating $1,000 or more during the reporting period. In addition, if you had a 10% or greater interest in a business entity, please refer to Schedules C-1, C-2, and H-2.

NOTE: Copies of financial reports are not acceptable as attachments to Schedule A because they ordinarily do not contain all of the information required to be disclosed and may include extraneous information.

A business entity is located in or doing business in the jurisdiction if it, a parent or subsidiary, or a related business entity:

- Manufactures, distributes, sells or purchases products or services on a regular basis in the jurisdiction.
- Plans to do business in the jurisdiction.
- Has done business in the jurisdiction within the previous two years.
- Has an interest in real property in the jurisdiction.
- Has an office in the jurisdiction.

The most common types of investments are:

- Sole proprietorships
- Partnerships
- Stocks, bonds, warrants and options including those held in margin or brokerage accounts
- Individual Retirement Accounts (IRAs) which are invested in reportable business entities or real property

You are not required to disclose the following investments:

- Bank accounts, savings accounts and money market accounts
- Insurance policies
- Shares in a credit union
- Government bonds
- Diversified mutual funds registered with the Securities and Exchange Commission (SEC)
- Common trust funds created under California Financial Code Section 1564
- Individual Retirement Accounts (IRAs) invested in non-reportable interests such as insurance policies, diversified mutual funds or government bonds

EXAMPLE

Assume that:

- You have a 50% partnership interest in ABC Land Developers, valued at $250,000, which you did not acquire or dispose of during the reporting period.

NAME OF BUSINESS ENTITY **ABC Land Developers**		VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☒ Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST **Partnership**	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year: Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☒ 10% or greater
GENERAL DESCRIPTION OF BUSINESS ACTIVITY **Land Developer**		

NAME _____

Schedule A - Investments
(Not Held By A Business Entity Or Trust)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NAME OF BUSINESS ENTITY		VALUE
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP INTEREST	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	Ownership Interest ☐ Less than 10% ☐ 10% or greater*

NOTE: YOU MAY BE REQUIRED TO REPORT ON SCHEDULE D ANY SALARY, COMMISSION, DISTRIBUTION OR OTHER INCOME ($250 OR MORE) RECEIVED BY YOU OR YOUR SPOUSE FROM ANY BUSINESS ENTITY LISTED ON SCHEDULE A.

* If you have checked this box, you must report on Schedules C-1 and C-2 any interests in real property and investments held by the business entity. In addition, if your pro rata share of the gross income from any one source was $10,000 or more, you may be required to report the name of that source on Schedule H-2.

☐ **If additional space is needed, check box and attach an additional Schedule A.**

INFORMATION FOR COMPLETING SCHEDULE B - Interests In Real Property
(Not Held By A Business Entity Or Trust)

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INTERESTS YOU MUST DISCLOSE.

You must report interests in real property located in your jurisdiction, in which you or your immediate family had a direct, indirect or beneficial interest aggregating $1,000 or more at any time during the reporting period.

Jurisdiction for reporting interests in real property:

Judges, court commissioners, state officeholders and state agency officials and employees have statewide jurisdiction and must report real property located anywhere within the State of California. An interest in real property is in the jurisdiction of a city or county if it is located in, or within two miles of, the city or county, or within two miles of any land owned or used by the city or county.

Interests in real property include:

- A leasehold interest*
- A beneficial ownership interest
- A deed of trust
- An easement
- An option to acquire any of the above
- An interest in real property held by an IRA in which you have a 10% or greater interest

*An interest in a lease on real property is reportable if the value of the leasehold interest is $1,000 or more. The value of the leasehold interest is the total amount of rent owed by you during the reporting period, or on an assuming office statement, during the prior 12 months. No leasehold interest with a value of less than $1,000 nor a month-to-month tenancy, need be reported. When reporting a leasehold interest, you must include the address or other precise location of the leased property and the date upon which the lease became effective, if this occurred during the reporting period.

EXAMPLE

Assume that:

- You own property located at 14738 Spruce Street, Little Town, which you rent to Sylvan Taylor. The fair market value of your interest in the property is $85,000 and you did not acquire or dispose of the property during the reporting period.

You are not required to disclose the following interests in real property:

- Any residence which you utilized exclusively as your personal residence, unless it is also a place of business, e.g., family farm, retail business, or vacation rental, in which case you are required to disclose only the value of that portion of the property which is used in connection with your business activities.
- Interests in real property acquired by a blind trust pursuant to FPPC Regulation 18235.

Reporting interests in rental property and income from rental property

If you or your immediate family have an interest in a rental property directly, i.e., not through a business entity, you must report:

- The property on Schedule B;
- Your share of the total amount of rental income received from the property on Schedule D; and
- If your ownership interest is 10% or greater, the name of any tenant who paid rent of which your pro rata share was $10,000 or more on Schedule H-3.

If you or your immediate family own a 10% or greater interest in a business entity, such as a partnership or joint venture, which owns rental property, do not use this schedule. Report:

- The business entity on Schedule A;
- The property held by the business entity on Schedule C-1;
- Your share of the total amount of income, including rents, received from the business entity on Schedule D;
- The name of any client or customer who provided rental income to the business entity of which your pro rata share was $10,000 or more on Schedule H-2.

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
14738 Spruce Street	Little Town	☐ $1,000-$10,000 ☒ $10,001-$100,000 ☐ Over $100,000
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST: Ownership		
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year: Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is ☐ Less than 10% ☒ 10% or greater	

NAME _____

Schedule B - Interests In Real Property
(Not Held By A Business Entity Or Trust)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is ☐ Less than 10% ☐ 10% or greater*

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is ☐ Less than 10% ☐ 10% or greater*

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is ☐ Less than 10% ☐ 10% or greater*

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	If Rental Property, Ownership Interest is ☐ Less than 10% ☐ 10% or greater*

NOTE: You may be required to report on Schedule D any income ($250 or more) received by you or your spouse from rental property listed on Schedule B.

* If you have a 10% or greater interest in a rental property, you may have additional reporting requirements on Schedule H-3.

☐ **If additional space is needed, check box and attach an additional Schedule B.**

INFORMATION FOR COMPLETING SCHEDULE C-1 - Interests In Real Property Held By A Business Entity Or Trust

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INTERESTS YOU MUST DISCLOSE.

During the reporting period, did you or your immediate family have a 10% or greater interest in a business entity or in a trust (including a living trust)?

NO-- You are not required to complete Schedule C-1.

Reporting Real Property Held By A Business Entity:

YES-- You must report interests in real property held by the business entity if your pro rata share of an interest in real property is $1,000 or more and the real property is located in your jurisdiction.

You also must report the business entity holding the interests in real property on Schedule A.

Reporting Real Property Held By A Trust (Including a Living Trust):

YES-- You must report interests in real property held by the trust if your pro rata share of an interest in real property is $1,000 or more and the real property is located in your jurisdiction. Pursuant to FPPC Regulation 18234, you have an interest in a trust if you are:

1. *A maker and:*
   a. can revoke or terminate the trust; or
   b. have retained any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
   c. have retained any power of appointment including the power to change the beneficiaries.
2. *A beneficiary and:*
   a. presently receive income; or
   b. have an irrevocable future right to receive income or principal.

If you are only a trustee, you do not have a reportable interest in the trust.

EXAMPLE

Assume that:

- You have a 50% partnership interest in ABC Land Developers worth $250,000.
- ABC Land Developers owns real property worth $300,000 located within your jurisdiction. The real property was not acquired or disposed of during the reporting period.

You must report:

- Your 50% interest in ABC Land Developers on Schedule A. The real property held by ABC Land Developers must be reported on Schedule C-1 as follows:

Name of Business Entity Or Trust Holding The Real Property: **ABC Land Developers**

Your investment in this business entity must be reported on Schedule A-Investments.

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	
AP 029 589202	**Little Town**	
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST **Ownership**		FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☒ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

NAME _____

Schedule C-1 - Interests In Real Property Held By A Business Entity Or Trust

(SEE INSTRUCTIONS ON PRECEDING PAGE)

Name of Business Entity Or Trust Holding The Real Property: _____

Your investment in this business entity must be reported on Schedule A-Investments.

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

STREET ADDRESS OR PRECISE LOCATION OF PROPERTY	CITY	FAIR MARKET VALUE
NATURE OF INTEREST, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
If Acquired Or Disposed During The Reporting Period You Must Indicate Month, Day and Year:	Date Acquired: _____ Date Disposed: _____	

☐ **If additional space is needed, check box and attach an additional Schedule C-1.**

INFORMATION FOR COMPLETING SCHEDULE C-2 -
Investments Held By A Business Entity Or Trust

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INVESTMENTS YOU MUST DISCLOSE.

During the reporting period, did you or your immediate family have a 10% or greater interest in a business entity or in a trust (including a living trust)?

NO-- You are not required to complete Schedule C-2.

Reporting Investments Held By A Business Entity:

YES-- You must report investments held by the business entity if your pro rata share of the investment is $1,000 or more and the investment is in a business entity located in, or doing business in, your jurisdiction.

You also must report the business entity holding such investments on Schedule A.

Reporting Investments Held By A Trust (Including a Living Trust):

YES-- You must report investments held by the trust if your pro rata share of the investment is $1,000 or more and the investment is in a business entity located in, or doing business in, your jurisdiction. Pursuant to FPPC Regulation 18234, you have an interest in a trust if you are:

1. *A maker and:*
   a. can revoke or terminate the trust; or
   b. have retained any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
   c. have retained any power of appointment including the power to change the beneficiaries.
2. *A beneficiary and:*
   a. presently receive income; or
   b. have an irrevocable future right to receive income or principal.

If you are only a trustee, you do not have a reportable interest in the trust.

NOTE: Copies of financial reports are not acceptable as attachments to Schedule C-2 because they ordinarily do not contain all of the information required to be disclosed and may include extraneous information.

EXAMPLE

Assume that:

- ABC Land Developers owns common stock worth $3,000 in Ajax Building Materials, which does business in your jurisdiction. The investment was not acquired or disposed of during the reporting period.

You must report:

- Your 50% interest in ABC Land Developers on Schedule A. The common stock held by ABC Land Developers must be reported on Schedule C-2 as follows:

Name of Business Entity Or Trust Holding The Investment(s): **ABC Land Developers**

Your investment in this business entity must be reported on Schedule A-Investments.

NAME OF BUSINESS ENTITY **Ajax Building Materials**		FAIR MARKET VALUE [X] $1,000-$10,000 [ ] $10,001-$100,000 [ ] Over $100,000
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP **Common Stock**	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	
GENERAL DESCRIPTION OF BUSINESS ACTIVITY **Manufactures Building Supplies**	Date Acquired: _____ Date Disposed: _____	

NAME _____

Schedule C-2 - Investments Held By A Business Entity Or Trust

(SEE INSTRUCTIONS ON PRECEDING PAGE)

Name of Business Entity Or Trust Holding The Investment(s): _____

Your investment in this business entity must be reported on Schedule A-Investments.

NAME OF BUSINESS ENTITY		
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	

NAME OF BUSINESS ENTITY		
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	

NAME OF BUSINESS ENTITY		
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	

NAME OF BUSINESS ENTITY		
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	

NAME OF BUSINESS ENTITY		
NATURE OF INVESTMENT, E.G., COMMON STOCK, PARTNERSHIP	If Acquired Or Disposed During The Reporting Period, You Must Indicate Month, Day and Year:	FAIR MARKET VALUE ☐ $1,000-$10,000 ☐ $10,001-$100,000 ☐ Over $100,000
GENERAL DESCRIPTION OF BUSINESS ACTIVITY	Date Acquired: _____ Date Disposed: _____	

☐ **If additional space is needed, check box and attach an additional Schedule C-2.**

INFORMATION FOR COMPLETING SCHEDULE D - Income (Other Than Loans And Gifts)

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

Honoraria Prohibition: Refer to page 1 of the Form 730 instructions for an explanation of the honoraria prohibition imposed on certain state and local designated officials and employees.

You must report your gross income and your community property interest in your spouse's gross income. Gross income is the total amount of income before deducting expenses, losses or taxes. Income aggregating $250 or more received from any source located in or doing business in your jurisdiction must be disclosed. Under the Political Reform Act, reportable income is defined differently than income for tax purposes. Refer to the instructions for Schedule A for assistance in determining whether a source of income is located in or doing business in your jurisdiction.

Reportable income includes:

- Commission income. (See Schedule H-1--Commission Income.)
- Income from a business entity.
- Your pro rata share of the total gross payments received by a business entity (including rental property) or a trust in which you or your spouse had an ownership interest of 10% or more.
- Your community property interest ***(50%)*** in your spouse's income. If your spouse is self-employed, you may be required to report the business entity on Schedule A.
- Proceeds from any sale, including the sale of a house or car. (The total sale price is reportable regardless of any obligation you might have to pay on loans secured by the property.)
- Rental income.
- Prizes or awards not disclosed as gifts.
- Forgiveness of a loan or other indebtedness.
- Loan payments received by you.
- Salary/wages, per diem, reimbursement for expenses. (See exclusions below. Also see Schedule D-1 - Income -- Travel Payments, Advances, Reimbursements.)

You are not required to disclose the following types of income:

- Salary or reimbursements for expenses and per diem from a federal, state or local government agency.
- Reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization.
- Campaign contributions.
- A devise or inheritance. ***(However, inheritance of an investment or an interest in real property may be required to be reported on Schedule A or B.)***
- Dividends, interest or other return on a security which is registered with the Securities and Exchange Commission.
- Payments received under an insurance policy.
- Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency.
- Income of dependent children.
- Alimony or child support payments.
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

EXAMPLE

Assume that:

- You received $10,800 in total rental income from your rental property, which is in your jurisdiction.
- Your spouse received $25,000 in salary from General Telephone Company, a communications firm which provides services in your jurisdiction.

NAME OF THE SOURCE OF INCOME: Rental Property ADDRESS: 14738 Spruce Street, Little Town, CA NATURE OF BUSINESS, IF ANY: Rental Property DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED: Rents	☐ $250-$1,000 ☐ $1,001-$10,000 ☒ Over $10,000
NAME OF THE SOURCE OF INCOME: General Telephone Company ADDRESS: 567 Main Street, Little Town, CA NATURE OF BUSINESS, IF ANY: Telephone Services DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED: Spouse's Salary	☐ $250-$1,000 ☐ $1,001-$10,000 ☒ Over $10,000

NAME _____

Schedule D - Income
(Other Than Loans And Gifts)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	GROSS INCOME RECEIVED:
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000
NAME OF THE SOURCE OF INCOME	
ADDRESS	☐ $250-$1,000
NATURE OF BUSINESS ACTIVITY, IF ANY	☐ $1,001-$10,000
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	☐ Over $10,000

☐ **If additional space is needed, check box and attach an additional Schedule D.**

INFORMATION FOR COMPLETING SCHEDULE D-1 - Income -- Travel Payments, Advances, Reimbursements

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

You must report payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence.

In addition to disclosing the source, date, amount, and purpose of the payment, check the box to indicate if the payment was a gift or income. To determine if travel payments are gifts or income:

- Travel payments are gifts if you did not provide services which were equal to or greater in value than the payments received. You must disclose gifts aggregating $50 or more from a single source during the period covered by the statement.
- Travel payments are income if you provided services which were equal to or greater in value than the payments received. You must disclose income aggregating $250 or more from a single source during the period covered by the statement.

Gov. Code Section 82028 provides that any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

You are not required to disclose on Schedule D-1 the following types of travel payments:

- Travel payments received from your employer in the normal course of your employment, or from any state, local, or federal government agency for which you provided equal or greater consideration for the payments received.
- Payment or reimbursement for transportation within California in connection with an event at which you gave a speech, participated in a panel or seminar or performed a similar service.
- Food, beverages, and necessary accommodations received directly in connection with an event held inside or outside California at which you gave a speech, participated in a panel, or provided a similar service.
- Travel payments received from a bona fide educational, academic, or charitable organization for which you provided equal or greater consideration for the payments received.

IMPORTANT: When reporting travel, you should be specific in disclosing the purpose of your travel. Certain travel payments are reportable gifts, but are not subject to the gift limits. Failure to specify the purpose of your travel may result in misinterpretation and be perceived as a gift violation. See the Commission's Fact Sheet on Gifts, Honoraria and Travel (1/96), which can be obtained from your filing officer or the FPPC at (916) 322-5660.

EXAMPLE

Assume that:

- You attended a trade show in San Francisco, CA. The American Manufacturers Assn. paid $175 for your travel and accommodations.

	DATE(S): (mo, day & yr)	AMOUNT(S):	PURPOSE AND LOCATION OF TRAVEL:
NAME OF SOURCE American Manufacturers Assn. ADDRESS 77 Green Lane, Mudville, CA NATURE OF BUSINESS ACTIVITY, IF ANY Trade Association TYPE OF PAYMENT (CHECK ONE) [X] GIFT [ ] INCOME	5/15/95	$175	Transportation and Accommodations to Attend Trade Show San Francisco, CA

NAME _____

Schedule D-1 - Income -- Travel Payments, Advances, Reimbursements

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	DATE(S): (mo, day & yr)	AMOUNT(S):	PURPOSE AND LOCATION OF TRAVEL:
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			
NAME OF SOURCE ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY TYPE OF PAYMENT: (CHECK ONE) ☐ GIFT ☐ INCOME			

☐ **If additional space is needed, check box and attach an additional Schedule D-1.**

INFORMATION FOR COMPLETING SCHEDULE E - Income -- Loans (Received Or Outstanding During The Reporting Period)

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

You must report loans, including real estate loans and margin accounts, received by you or your spouse aggregating $250 or more from a single source which is located in, or doing business in, your jurisdiction. All reportable loans received or outstanding during the reporting period must be disclosed. If you have received more than one loan from a single source, you must aggregate the amounts to determine if you have received $250 or more from a single source. Report each loan separately. A forgiven loan is a gift and must be reported on Schedule F-Gifts.

A source of income is located in or doing business in the jurisdiction if it, a parent or subsidiary, or a related business entity:

- Manufactures, distributes, sells or purchases products or services on a regular basis in the jurisdiction.
- Plans to do business in the jurisdiction.
- Has done business in the jurisdiction within the previous two years.
- Has an interest in real property in the jurisdiction.
- Has an office in the jurisdiction.

EXAMPLE

Assume that:

- You received an equity loan in the amount of $15,000 from Greatest Savings and Loan on your principal place of residence to consolidate your bills and to take a vacation.
- You received a personal loan from a friend, who resides in the jurisdiction, in the amount of $1,500.

You are not required to disclose the following loans:

- Any loan from a commercial lending institution used to purchase, refinance the purchase of, or for improvements to, your principal place of residence if the loan was made in the lender's regular course of business on terms available to members of the public without regard to official status.
- Loans from a commercial lending institution in the normal course of business which, in the aggregate, did not exceed $10,000 at any time during the reporting period.
- Any indebtedness created as part of a retail installment or credit card transaction made in the creditor's regular course of business on terms available to the public without regard to official status if the aggregate amount owed to the creditor did not exceed $10,000 at any time during the reporting period.
- Any loan from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, except that a loan from any such person is reportable if the person is acting as an intermediary or agent for any person not covered by this provision.

You must report:

- The equity loan on your principal place of residence because the loan amount was over $10,000 and the money was not used to refinance or improve your principal residence.
- The loan from your friend.

NAME OF LENDER		AMOUNT OF HIGHEST BALANCE DURING THE REPORTING PERIOD:
Greatest Savings & Loan		☐ $250-$1,000
ADDRESS: 123 Main Street, Little Town		☐ $1,001-$10,000
NATURE OF BUSINESS, IF ANY: Lending Institution	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☒ NO	☒ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address): Personal Residence ☐ NONE		INTEREST RATE: 8% ☐ NONE

NAME OF LENDER		
Martin Smith		☐ $250-$1,000
ADDRESS: 567 A Street, Little Town		☒ $1,001-$10,000
NATURE OF BUSINESS, IF ANY: Construction	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☒ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address): ☒ NONE		INTEREST RATE: 7% ☐ NONE

NAME _____

Schedule E - Income -- Loans
(Received or Outstanding During the Reporting Period)

(SEE INSTRUCTIONS ON PRECEDING PAGE)

AMOUNT OF HIGHEST BALANCE DURING THE REPORTING PERIOD:

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

NAME OF LENDER		☐ $250-$1,000
ADDRESS		☐ $1,001-$10,000
NATURE OF BUSINESS ACTIVITY, IF ANY	WAS THE ENTIRE LOAN REPAID DURING THE REPORTING PERIOD? ☐ YES ☐ NO	☐ Over $10,000
SPECIFIC SECURITY FOR LOAN INCLUDING GUARANTOR (If Real Property, Provide Address) ☐ NONE		INTEREST RATE ☐ NONE

☐ **If additional space is needed, check box and attach an additional Schedule E.**

INFORMATION FOR COMPLETING SCHEDULE F - Income -- Gifts

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

Gift Limit and Honoraria Prohibition: Refer to page 1 of the Form 730 instructions for an explanation of the honoraria prohibition and gift limit imposed on certain state and local designated officials and employees.

"Gift" means anything of value, whether tangible or intangible, for which equal or greater value is not provided. You must disclose gifts with an aggregate value of $50 or more received during the reporting period from a single source covered by your disclosure category. **Gifts are reportable without regard to where the donor is located.** Any number of gifts from one person, the values of which add up to $50 or more during the reporting period, must be disclosed.

It is the acceptance of a gift, and not the ultimate use to which it is put, that imposes your reporting obligation. Therefore, except as noted below, you must report a gift even if you never make use of it or if you give it away to another person.

If the exact amount of a gift is not known, you must make a good faith estimate of the item's fair market value. Listing the value of the gift as "over $50" or "value unknown" is not adequate disclosure. In addition, if you receive a gift through an intermediary, you must disclose the name, address and business activity of both the donor and the intermediary.

In most cases, the full amount of a gift made to you and your spouse must be counted to determine if the gift must be disclosed. However, for wedding gifts, only one-half of the value of each gift is attributable to you, unless the gift is intended exclusively for your use and enjoyment.

You are <u>not</u> required to disclose the following types of gifts:

- Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- Gifts from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, provided that a gift from any such person must be disclosed if the person is acting as an agent or intermediary for a reportable source of income.
- Gifts of hospitality involving food, drink or occasional lodging provided in an individual's home.
- Gifts equal in value exchanged between you and an individual, other than a lobbyist, on holidays, birthdays, or similar occasions.
- Gifts of informational material provided to assist you in the performance of your official duties, such as books, pamphlets, reports, calendars or periodicals.
- A bequest or inheritance. **(However, an inheritance of an investment or an interest in real property may be required to be reported on Schedule A or B.)**
- Personalized plaques and trophies with an individual value of less than $250.
- Campaign contributions.
- Food, beverage, and necessary accommodations received directly in connection with an event at which you gave a speech, participated in a panel, or provided a similar service. However, any extra benefits (such as an extra night's lodging) which were not provided directly in connection with your participation in the event must be reported as a gift.
- Tickets to a fundraising event for a 501(c)(3) organization.
- Tickets to a political fundraiser.
- A pass or ticket which provides a <u>one time</u> admission to an event (theater performance, sporting event) that is not used and is not transferred to another person. Commission Regulation 18946.1 provides a method for determining the value of a ticket or pass that is used or transferred to another person and for determining the value of a pass or tickets which provide repeated admission to facilities or services.
- Gifts provided directly to members of your immediate family unless you receive direct benefit from the gift or you exercise discretion and control over the use or disposition of the gift.

EXAMPLE

Assume that:

- You received 2 tickets to a professional baseball game from Valley Pipe Systems.

NAME OF DONOR / ADDRESS / NATURE OF BUSINESS, IF ANY	DATE(S) RECEIVED: (mo. day & yr)	VALUE(S):	DESCRIPTION OF GIFT(S):
Valley Pipe Systems **200 E. Fifth, Hometown** **Manufactures Irrigation & Plumbing Supplies**	**March 1, 1995**	**$50**	**Tickets to Hometown A's Baseball Game**

NAME _____

Schedule F - Income -- Gifts

(SEE INSTRUCTIONS ON PRECEDING PAGE)

	DATE(S) RECEIVED: (mo, day & yr)	VALUE(S):	DESCRIPTION OF GIFT(S):
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			
NAME OF DONOR ADDRESS NATURE OF BUSINESS ACTIVITY, IF ANY			

☐ **If additional space is needed, check box and attach an additional Schedule F.**

INFORMATION FOR COMPLETING SCHEDULE G - Business Positions

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF POSITIONS YOU MUST DISCLOSE.

You must report the name of any business entity covered by your disclosure category for which you are a director, officer, partner, trustee, employee, or hold any position of management.

Positions held in non-profit or charitable organizations or campaign committees are not reportable.

EXAMPLE

Assume that:

- Your disclosure category requires you to disclose business positions in entities which are contractors, land developers, or manufacturers of equipment used by your agency. You have been a partner in ABC Land Developers during the entire reporting period.
- You would report that position as follows:

NAME OF BUSINESS ENTITY	ADDRESS OF ENTITY
ABC Land Developers	**5744 Tenth Street, Little Town**
NATURE OF BUSINESS ACTIVITY, IF ANY	YOUR JOB TITLE OR POSITION
Land Developer	**Partner**
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☒ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

NAME _____

Schedule G -- Business Positions

(SEE INSTRUCTIONS ON PRECEDING PAGE)

NAME OF ENTITY	ADDRESS OF ENTITY
NATURE OF BUSINESS ACTIVITY	YOUR JOB TITLE OR POSITION
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☐ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

NAME OF ENTITY	ADDRESS OF ENTITY
NATURE OF BUSINESS ACTIVITY	YOUR JOB TITLE OR POSITION
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☐ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

NAME OF ENTITY	ADDRESS OF ENTITY
NATURE OF BUSINESS ACTIVITY	YOUR JOB TITLE OR POSITION
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☐ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

NAME OF ENTITY	ADDRESS OF ENTITY
NATURE OF BUSINESS ACTIVITY	YOUR JOB TITLE OR POSITION
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☐ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

NAME OF ENTITY	ADDRESS OF ENTITY
NATURE OF BUSINESS ACTIVITY	YOUR JOB TITLE OR POSITION
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☐ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

NAME OF ENTITY	ADDRESS OF ENTITY
NATURE OF BUSINESS ACTIVITY	YOUR JOB TITLE OR POSITION
POSITION HELD THROUGH ENTIRE REPORTING PERIOD? ☐ YES ☐ NO	IF NO PLEASE INDICATE: POSITION COMMENCED ON _____ POSITION TERMINATED ON _____

☐ **If additional space is needed, check box and attach an additional Schedule G.**

INFORMATION FOR COMPLETING SCHEDULE H-1 -- Commission Income

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

During the reporting period, did you or your spouse receive "commission income" for services rendered as a broker, agent, or salesperson?

NO – You are not required to complete Schedule H-1.

YES-- You must provide the name of each individual or entity which:

- Is located in, or doing business in, your jurisdiction; ***and***
- Was a source of commission income, provided that your pro rata share from that individual or entity was $10,000 or more.

If you or your spouse received commission income as a broker, agent, or salesperson, you must disclose the names of sources of commission income if your pro rata share of the gross commission income amounts to $10,000 or more from a single source during the reporting period. ***No ownership interest in a business entity is necessary to require disclosure or disqualification under this provision.***

"Commission income" means gross payments received as a result of services rendered as a broker, agent, or salesperson. Persons who must report commission income include: insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission. (See example below.)

NOTE: If you have reported yourself or your employer as a source of commission income on Schedule D, you are not required to itemize yourself or your employer as a source of income on Schedule H-1. Also, if your pro rata share of commission income from a single source is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report it.

EXAMPLE

Assume that:

- You are an agent for Smith and Jones Insurance Company. You sold two Businessmen's Insurance Company policies to XYZ Company. You received commission income of $5,000 from the first transaction and $6,000 from the second transaction.
- Your spouse is a real estate broker for Goldwater Realty and received a commission of $20,000 from the Grand Company.

You must report:

- Both XYZ Company and Businessmen's Insurance Company as sources of commission income because each was a source of $10,000 or more. Smith and Jones is disclosed on Schedule D as a source of commission income, and on Schedule H-1 as the business entity through which you received the income.
- Grand Company, your spouse's client, because your community property share (50%) of the gross receipts amounted to $10,000 and would meet the reporting threshold. You would also report your community property share of your spouse's income from Goldwater Realty on Schedule D as a source of income.

NAME OF BUSINESS ENTITY	
Smith and Jones Insurance Company	
NAMES OF SOURCES OF INCOME	
XYZ Company	
Businessmen's Insurance Company	
NAME OF BUSINESS ENTITY	
Goldwater Realty	
NAMES OF SOURCES OF INCOME	
Grand Company	

NAME _____

Schedule H

(SEE INSTRUCTIONS ON PRECEDING PAGES)

Schedule H-1
Commission Income Received By Brokers, Agents And Salespersons

NAME OF BUSINESS ENTITY	
NAMES OF SOURCES OF INCOME	

Schedule H-2
Income And Loans To A Business Entity Or Trust

NAME OF BUSINESS ENTITY OR TRUST	ADDRESS OF BUSINESS ENTITY OR TRUST
NATURE OF BUSINESS, IF ANY	
NAMES OF SOURCES OF INCOME AND LOANS TO THE BUSINESS ENTITY OR TRUST	

Schedule H-3
Income From Rental Property

You must disclose the **name(s)** of any renter(s) who made rent payments, provided that your pro rata share of such receipts from any one renter was **$10,000** or more.

ADDRESS OF RENTAL PROPERTY	CITY
NAMES OF RENTERS	
ADDRESS OF RENTAL PROPERTY	CITY
NAMES OF RENTERS	

☐ **If additional space is needed, check box and attach additional schedules.**

INFORMATION FOR COMPLETING SCHEDULE H-2--
Income And Loans To A Business Entity Or Trust

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

If, during the reporting period, you and your spouse owned an aggregate interest of 10% or more in any business entity or a trust, you must provide the name of each individual or entity which:

- Is located in, or is doing business in, your jurisdiction; and
- Was a source of income to the business entity or trust, provided that your pro rata share of such payments or receipts was $10,000 or more. Income includes, but is not limited to, payments received for legal or other services, rental income, loans received or outstanding, forgiveness or payment of indebtedness, and retail sales.

IMPORTANT: The requirement to report sources of income to a business entity or trust is determined by the location of the source of the loan or income--not by the location of the business entity or trust which received the loan or income.

If the business entity in which you have a 10% or greater interest is located in or doing business in your jurisdiction, it must also be reported on Schedule A and you may be required to complete Schedules C-1 and C-2. Your pro rata share of the gross income to the business entity must be reported on Schedule D.

FPPC Regulation 18740 provides a procedure for obtaining an exemption from the disclosure requirement of clients' names which are legally recognized as privileged under California law. You may obtain a copy of Regulation 18740 by contacting the Fair Political Practices Commission.

NOTE: If your pro rata share of income or a loan to a business entity or trust is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income or loan, even though you are not required to report it.

EXAMPLE

Assume that:

- During the reporting period, ABC Land Developers, in which you have a 50% partnership interest, received a loan from the Little Town Bank in the amount of $30,000. The bank has a branch which is located in your jurisdiction.
- Your spouse owns 100% of a law firm. A client paid your spouse $20,000 during the reporting period. This client is doing business in your jurisdiction.

You must report:

- The loan to ABC Land Developers from the Little Town Bank because your pro rata share (50%) of the $30,000 loan is $15,000 and meets the $10,000 reporting threshold.
- Your spouse's law firm and its client because your pro rata share (50%) of the $20,000 paid to the law firm is $10,000 and meets the reporting threshold.

NAME OF BUSINESS ENTITY OR TRUST	ADDRESS OF BUSINESS ENTITY OR TRUST
ABC Land Developers	**5744 Tenth Street, Little Town**
NATURE OF BUSINESS, IF ANY **Land Developer**	
NAMES OF SOURCES OF INCOME AND LOANS TO THE BUSINESS ENTITY OR TRUST **Little Town Bank**	
NAME OF BUSINESS ENTITY OR TRUST	ADDRESS OF BUSINESS ENTITY OR TRUST
Smith and Jones	**1261 High Street, Little Town**
NATURE OF BUSINESS, IF ANY **Law Firm**	
NAMES OF SOURCES OF INCOME AND LOANS TO THE BUSINESS ENTITY OR TRUST **Joseph Brown and Associates**	

INFORMATION FOR COMPLETING SCHEDULE H-3 -- Income From Rental Property

BEFORE COMPLETING THIS SCHEDULE, CONSULT YOUR AGENCY'S CONFLICT OF INTEREST CODE TO DETERMINE THE TYPES OF INCOME YOU MUST DISCLOSE.

If, during the reporting period, you and your spouse owned an aggregate interest of 10% or more in any rental property, you must provide the name of each individual or entity which made rent payments, provided that your pro rata share of the receipts was $10,000 or more.

IMPORTANT: The requirement to report sources of rental income is determined by the location of the source of income--not by the location of the rental property.

If the rental property in which you have a 10% or greater interest is located in your jurisdiction, it must also be reported on Schedule B. Your pro rata share of the gross rental income from the property must also be reported on Schedule D.

NOTE: If your pro rata share of rental income from a single source is $250 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report it.

EXAMPLE

Assume that:

- You own a home in your jurisdiction from which rental income was received from a single tenant in the amount of $10,800.
- Your own rental property which is located in Sierra Springs, which is not in your jurisdiction. Your rental tenant owns J.R. Car Dealership which is located in your jurisdiction.

You must report:

- The name of the rental tenant who paid rent in the amount of $10,000 or more to rent the property.
- The name of the rental tenant (John Roberts) who paid rent in the amount of $10,000 or more.

ADDRESS OF RENTAL PROPERTY	CITY
14738 Spruce Street	**Little Town**
NAMES OF RENTERS **Sylvan Taylor**	
ADDRESS OF RENTAL PROPERTY **15255 Maple Street**	CITY **Sierra Springs**
NAMES OF RENTERS **John Roberts**	

AFFIRMATIVE ACTION/EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

It is the policy of the California Coastal Commission to provide equal employment opportunity for all persons without regard to age, race, sex, color, religion, national origin, political affiliation, ancestry, marital status, sexual orientation or disability. All efforts to provide equal opportunity personnel practices will be made on the basis of merit, efficiency and fitness consistent with state civil service and merit system principles.

This policy is issued in the belief that State government and its component agencies must ensure equal treatment for all persons and correction of past inequities. It is our goal to achieve and maintain a workforce representative of the general population for all occupations and at all levels.

This agency will fully conform to the Civil Rights Act of 1964, the Governor's Code of Fair Practices (Executive Order No. R-34-71), California Government Code Sections 19790-19796, Executive Order No. B-54-79, and all other related State and Federal civil rights laws.

Based on these mandates, the California Coastal Commission has established an Affirmative Action Program to ensure equal employment opportunity for all existing employees at all levels and all applicants for employment as well as to alleviate the identified underutilization of women, minorities and disabled persons. The implementation of specific affirmative actions will be accomplished using goals and timetables.

The California Coastal Commission's formal Affirmative Action Program addresses such significant issues as ethnic minority underrepresentation, underutilization of women, disabled employment, upward mobility, and procedures for handling counseling and discrimination complaints.

The Affirmative Action Program will receive staff support and resources as necessary to meet its goals and may be supported by participation in Federal and State sponsored programs designed to aid women, minorities, the disabled and other disadvantaged groups. This policy and the total Affirmative Action Program will be evaluated periodically and modified as necessary.

The authority for coordinating, monitoring, evaulating and reporting on affirmative action programs has been assigned to the Affirmative Action Officer. The Affirmative Action Officer reports directly to the Executive Director on equal employment and affirmative action matters. The responsibilities of the Affirmative Action Officer includes general development of the Affirmative Action Program and its specific approaches, provision of related assistance to departmental staff, monitoring and evaluating performance and progress in carrying out and achieving the objectives of the program; and the recommendation to the Executive Director of appropriate actions.

It is the responsibility of all managers and supervisors to support, implement and carry out the EEO policy and affirmative action goals and to assure that hiring, promotion, assignment and training of personnel is conducted consistent with this policy. Finally, it is the responsibility of all employees to provide a climate of support for the Agency's policy. Failure to comply with this policy may result in disciplinary action.

This policy is effective immediately and is to be disseminated widely to all employees, applicants, and interested organizations.

As the Executive Officer of this department, I adopt this policy as my fundamental responsibility and pledge my personal commitment to delivering its objectives.

MICHAEL L. FISCHER
Executive Director

April 25, 1984

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

June 10, 1996

Carl L. Williams, Esq.
708 Broderick Street
San Francisco, CA 94117

SUBJECT: Restrictions on Your Activities As A Former Coastal Commissioner

Dear Mr. Williams:

I am writing to inform you of the general restrictions that apply to you as a former Commissioner following your recent departure from the Coastal Commission. In general, there are two major laws that limit the scope of activities of former state officials: (1) the Political Reform Act (Gov. Code section 81000 et seq.) and (2) the Public Contract Code. (Pub. Contract Code section 100 et seq.) In relevant part, the Political Reform Act requires that you file a Leaving Office Statement of Economic Interests and restricts the scope of new employment you may pursue after you leave the Coastal Commission. The Public Contract Code prohibits you from entering into a contract for two years after leaving the Commission if you were involved in decision-making relevant to the contract while in state service.

POLITICAL REFORM ACT

The Political Reform Act imposes three requirements on the activities of state officials, including members of the California Coastal Commission, who are leaving state service.

1. It requires that a Statement of Economic Interests disclosing investments and interests in real property be filed no later than 30 days after leaving the Commission. (Gov. Code section 87204.) (Exhibit A.)

2. It places a one-year ban on appearing before or communicating with the Coastal Commission or Commission staff for specified purposes for compensation. (Gov. Code section 87406.) (See Exhibit B.)

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3. It places a lifetime ban on participating for compensation before the Coastal Commission, a state agency or court in the same proceedings in which you participated at the Coastal Commission. (Gov. Code sections 87400-87405.) (See Exhibit B.)

An explanation of each restriction is set forth below.

I. Obligation To File Statement Of Economic Interests

The Political Reform Act requires you to file a statement of Economic Interests within 30 days after leaving office. It is our understanding that you have already received information regarding this obligation from Denise Choye of this office. As indicated in the information sent to you, the leaving office statement shall disclose reportable investments, interests in real property, and income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office. (Gov. Code section 87204.) (See Exhibit A.)

II. One-Year Ban On Appearing Before Or Communicating With Former State Agency For Specified Purposes For Compensation

You are also subject to a one-year ban on communicating with Coastal Commissioners or staff for the purpose of influencing specified Coastal Commission actions. (Gov. Code section 87406(d)(1).) (See Exhibit B.) The restrictions of the one-year ban apply to compensated activity, but not to volunteer work, appearances in court or before an administrative law judge.

A. What period is covered?

The one-year ban on appearing before or communicating with the Coastal Commission for compensation applies to the 12 month period following your departure from the Commission. Since you were removed from office by the Speaker of the Assembly on May 21, 1996, the one-year ban commenced on that day.

B. What conduct is prohibited?

1. Being paid by any other person to make an appearance before or communicate[1/] with the Coastal Commission or its staff, if the appearance or communication is for the purpose of:

1/ "Communication" is not specifically defined under the Political Reform Act but is likely to be interpreted broadly to include both written and oral communications with the Commission or its staff.

a. Influencing[2] administrative action[3] to be taken by the Coastal Commission. Accordingly, for one year after leaving office, you may not represent clients before the Coastal Commission regarding the adoption, amendment or repeal of any regulations.

b. Influencing legislative action by the Coastal Commission. (Gov. Code section 82037.) (Exhibit C.) Thus, although you may lobby the Legislature on legislation affecting the Coastal Act, you cannot appear before the Commission for the purpose of influencing the language of a bill or the Commission's support of or opposition to the bill.

c. Influencing any Coastal Commission action involving the issuance, amendment, awarding or revocation of a permit, license, grant or contract, or the sale or purchase of goods or property. (Gov. Code section 87406(d).) (See Exhibit B.) Consequently, for one year following your departure from the Commission, you may not attempt to influence in any way Coastal Commission action on any permits or development agreements[4], whether or not you previously participated in any aspect of the permit or development agreement.

C. What conduct is not expressly prohibited but may be prohibited by implication?

The law does not expressly prohibit communications for compensation about permit enforcement proceedings, federal consistency review or action on local coastal programs. It appears that none of those actions fit under the category of prohibited communication about "administrative action" because they are not quasi-legislative. (Gov. Code section 82002; Cal. Code Regs., tit. 2, section 18202, City of Chula Vista v. Superior Court of San Diego County (1982) 133 Cal.App.3d 472.) (See Exhibits D & E.) It is unclear

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2/ "Influencing " legislative or administrative action includes delaying such action as well as providing information, statistics, studies or analyses. (Gov. Code section 82032.)

3/ "Administrative action" means, in relevant part, the proposal, drafting, development, consideration, amendment, enactment or defeat of any rule or regulation or any quasi-legislative proceeding. (Gov. Code section 82002.)

4/ It appears that an appearance or communication regarding a development agreement would be prohibited because a development agreement has been determined to constitute a contract in an Attorney General's Opinion which construed the word "contract" in the context of another statute. (78 Ops.Cal.Atty.Gen. 230.)

whether they might be included in the category of prohibited communications concerning the "issuance, amendment, awarding or revocation" of permits. (See Gov. Code section 87406(d).) (See Exhibit B.) In interpreting this section, the Fair Political Practices Commission or a reviewing court would address the question of whether communications concerning other activities related to permits (such as enforcement), and other quasi-judicial actions (such as federal consistency and local coastal programs) are included by implication or are excluded (and thus are allowable) because they are not specifically listed.

Because it is not clear whether influencing Commission activities for compensation in these areas would be prohibited by this law, we advise that, if you intend to engage in such communications, you first seek advice from either private counsel or the Fair Political Practices Commission.

D. What conduct is <u>not</u> prohibited by the one-year ban?

1. Uncompensated communications with the Coastal Commission.

2. Appearances in a court of law. (Gov. Code section 87406(c).) (See Exhibit B.)

3. Appearances in formal proceedings before an administrative law judge. (Gov. Code section 87406(c).) (See Exhibit B.)

4. Advice given to a third party about the Coastal Commission.

5. Appearances or communications before the Coastal Commission affecting regulations or legislation, if made on behalf of another state agency for whom you are working as either an officer or employee. (Gov. Code section 87406(e).) (See Exhibit B.)

6. A request for a formal legal opinion from the Coastal Commission. (See Cal. Code Regs., tit. 2, section 18202(a)(7).) (See Exhibit E.)

7. Representing yourself before the Coastal Commission.

III. <u>Lifetime Ban On Participating In Specific Proceedings</u>

In addition to the one-year ban on appearing before the Commission for compensation, the Political Reform Act also contains a lifetime ban on participation for compensation before the Commission, a state agency or court in proceedings in which you previously participated as a Coastal Commissioner. Government Code sections 87400-87405 permanently prohibit a former state official, who participated in a "judicial, quasi-judicial or other proceeding" from being paid to represent or advise another person[5/]

5/ "Person" is broadly defined to include any organization or group of persons acting in concert. (Gov. Code, section 82047.) Accordingly, the ability to represent either individuals or a city or county in certain proceedings is restricted.

regarding that same proceeding. This means you may not represent clients in "proceedings" you have participated in at the Commission and you may not assist or advise others for compensation who are working on such matters.

A. What conduct is prohibited by the lifetime ban?

1. Acting as agent or attorney for, or otherwise representing, any other person by making any formal or informal appearance in or by making any oral or written communication before the Coastal Commission, a state agency or court with the intent to influence the outcome of the same proceeding in which the official participated (Gov. Code section 87401.) (See Exhibit B.); or

2. Aiding, advising, counseling, consulting or assisting in representing any other person before the Coastal Commission, a state agency or court with the intent to influence the outcome of the same proceeding in which the official participated. (Gov. Code section 87402.) (See Exhibit B.)

B. What is a "judicial, quasi-judicial or other proceeding" governed by the lifetime ban?

The statute imposes a lifetime ban on your participation in a "judicial, quasi-judicial or other proceeding" before the Commission in which you have previously participated as a Commissioner. It appears that most but not all Commission proceedings are subject to the ban. The criterion cited by the FPPC in its informal opinion letters to determine whether the proceeding fits under the ban is whether it involves a specific party or parties rather than matters concerning general rules of applicability. (Gov. Code section 87400(c).) (See Exhibit B.) Examples of Commission matters that would be classified as proceedings under the statute are:

1. A specific coastal development permit application. (<u>FPPC letter to Linda Goff Evans, Dated May 12, 1986, File No. I-86-117</u> attached as Exhibit F.)

2. Enforcement proceedings, litigation, and contracts. (Gov. Code, section 87400(c).) (See generally Exhibit B.)

3. Negative determinations and federal consistency review. (<u>FPPC letter to James McGrath, Dated March 7, 1990, File No. A-90-085</u> attached as Exhibit G.)

4. Land use plans, implementing ordinances, local coastal programs, port master plans and other plans reviewed by the Commission would be proceedings subject to the ban <u>only</u> if they affect a specific party or parties, rather than a significant segment of the properties within the jurisdiction of the land use plan. (<u>FPPC letter to Linda Goff Evans, Dated May 12, 1986, File No. I-86-117</u> attached as Exhibit F; <u>FPPC letter to Melvin L. Nutter, Dated March 11, 1986,</u>

File No. A-86-042 attached as Exhibit H.) FPPC letter to Timothy Cohelan, Dated September 13, 1985, File No. A-85-175 attached as Exhibit I.)

C. How do you know if your action on one of the proceedings listed in B was "participation" under the statute?

1. You have "participated" in a proceeding during your tenure with the Commission if you took part in the proceeding "personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information." (Gov. Code section 87400(d).) (See Exhibit B.) Thus, for example, if you provided your views on the record and/or voted, you participated.

D. If you participated as a Commissioner in one of the proceedings listed above, can you participate in a future matter before the Commission related to that proceeding?

While participation in the same proceeding is prohibited, participation in a new proceeding is not. In order to determine whether it is a new proceeding, the FPPC staff has opined in informal advice letters that the criteria it will consider are whether the new proceeding involves the same land and the same issues. If both are true, then the subsequent matter would be considered to be the same proceeding as the one on which you had already acted as a Commissioner. Examples of how they have applied or may be expected to apply these criteria are:

1. You have participated in a permit proceeding.

If you participated as a Commissioner in an action on a permit you would not be allowed to represent anyone for compensation in connection with the adoption of findings. It appears that you could represent someone in connection with an amendment to that permit or a new permit for the same tract of land if new issues are presented. (FPPC letter to Ruth B. Galanter, May 18, 1982, File No. 82-079 attached as Exhibit J.)

2. You have participated in the Commission's review of land use plan or local coastal program.

If you participated in the Commission's approval of a land use plan, you may face the question of whether you could work for compensation on implementation ordinances submitted after you have left the Commission. Similarly, the question may also arise as to whether you could work on a coastal development permit after you have left the Commission where the permit would be subject to the standards in an LUP or implementing ordinances on which you had voted as a Commissioner.

The FPPC has advised in an informal opinion that it considers each of these three phases to be separate proceedings. (FPPC letter to Linda Goff Evans, May 12, 1986, File No. I-86-117, attached as Exhibit F.) That

advice would lead to the conclusion that you may work for compensation on either of those subsequent submittals to the Commission.

It should be noted that the FPPC opined on this question without analyzing the specific facts or issues presented by the various actions on which Ms. Goff had worked. It is theoretically possible that it could reach a contrary conclusion if the facts presented to it indicated that each of these phases presented identical issues and facts. Similarly, in addressing that question, the FPPC might consider whether one or more of the phases "duplicated" another, as might be the case if an implementation plan for a specific parcel contained the same details as those included with a subsequent permit application. If you want to represent a client in connection with a permit application that presents issues that are identical to those raised in a plan on which you voted, you may want to seek advice from either private counsel or the FPPC.

3. <u>You have participated in the Commission's review of other types of plans.</u>

The same principles also appear to apply to your participation for compensation in proceedings before the Commission involving other types of plans, such as public works plans and long range development plans. If you have acted upon a port master plan, the principles identified in #2 above would govern future phases of the port master plan process or coastal development permits. (<u>FPPC letter to James McGrath, March 7, 1990, File No. A-90-085</u> attached as Exhibit G.)

4. <u>You wish to represent or advise a client in connection with enforcement of a permit in which you participated.</u>

It is unclear whether you would be prohibited from representing a client in connection with a cease and desist proceeding before the Commission or a judicial proceeding to enforce the conditions of a permit issued by the Commission on which you had voted as a Commissioner. The cease and desist proceeding or enforcement action might be considered to be a different proceeding to the extent that the action did not challenge the permit action in which you had participated but rather focused on action taken by your client subsequent to the permit action. If you intend to represent a client in this situation, you may want to seek advice from either private counsel or the FPPC.

5. <u>You wish to represent or advise a client in connection with litigation concerning a proceeding in which you participated</u>.

The law prohibits you from representing a client in court in connection with any proceeding on which you acted as a Commissioner. It appears likely that a court would consider but not be bound by the principles articulated by the FPPC in the informal opinions cited above in determining whether or not to grant a motion to disqualify you.

E. When would the prohibition not apply?

1. Acting on behalf of another state agency or the State of California. (Gov. Code sections 87401, 87402.) (See Exhibit B.)

2. Uncompensated appearances or assistance in the representation. (Gov. Code sections 87401, 87402.) (See Exhibit B.)

3. Uncompensated declarations or testimony about a subject within an area of special expertise. (Gov. Code section 87403(a).) (See Exhibit B.)

4. Communications in a proceeding solely for the purpose of furnishing otherwise unavailable expert testimony, if the court or agency to which the information is communicated makes specific findings that the public interest would be served by your participation. (Gov. Code, section 87403(b).) (See Exhibit B.)

5. If a final decision has been made in the proceeding, but a court or another state agency has retained jurisdiction, and the Coastal Commission gives its consent to the participation by determining that at least five years have elapsed since termination of your term of office and the public interest would not be harmed. (Gov. Code, section 87403(c).) (See Exhibit B.)

6. Representing yourself.

PUBLIC CONTRACT CODE

IV. Prohibition On Entering Into Certain Contracts For Two Years

In addition to the three above-referenced restrictions of the Political Reform Act, the Public Contract Code also places restrictions on the activities of persons formerly appointed to serve in state government, including members of the California Coastal Commission. Public Contract Code section 10411 prohibits you, during the two-year period following your departure from the Commission, from entering into a contract in which you engaged in any of the negotiations, planning or decision-making relevant to the contract while serving as a member of the Coastal Commission. (See Exhibit K.) Although the term "contract" is not specifically defined for purposes of section 10411, the context of the statute appears to indicate that the types of Commission contracts subject to this prohibition are those for procurement of materials, supplies, equipment and services.

CONCLUSION

If you have any further inquiries about the scope of the activities in which you may engage under either the Political Reform Act or the Public

Contract Code, you may wish to seek legal advice from a private attorney. In addition, you may contact the Fair Political Practices Commission directly for a formal advisory opinion on your obligations under the Political Reform Act in light of your previous duties as a Coastal Commissioner. Government Code section 83114 provides that "[n]o person who acts in good faith on an opinion issued to him by the [Fair Political Practices C]ommission shall be subject to criminal or civil penalties for so acting, provided the material facts are as stated in the opinion request . . . ." (Exhibit L.) You may also request informal assistance from the FPPC, but you should be aware that pursuant to section 18329 of Title 2 of the California Code of Regulations, informal advice from the FPPC does not provide immunity from civil and criminal penalties. (See Exhibit M.) Such advice may nevertheless assist you in complying with the legal requirements that apply to your new endeavors.

Very truly yours,

RALPH FAUST
Chief Counsel

Attachments

4040L

LIST OF EXHIBITS

A	Government Code section 87204
B	Government Code section 87400, et seq.
C	Government Code section 82037
D	Government Code section 82002
E	California Code of Regulations, Title 2, section 18202
F	Fair Political Practices Commission letter to Linda Goff Evans, dated May 12, 1986, File No. I-86-117
G	Fair Political Practices Commission letter to James McGrath, dated March 7, 1990, File No. A-90-085
H	Fair Political Practices Commission letter to Melvin L. Nutter, dated March 11, 1986, File No. A-86-042
I	Fair Political Practices Commission letter to Timothy Cohelan, dated September 13, 1985, File No. A-85-175
J	Fair Political Practices Commission letter to Ruth B. Galanter, dated May 18, 1982, File No. 82-079
K	Public Contract Code section 10411
L	Government Code section 83114
M	California Code of Regulations, Title 2, section 18329

nership shares. Community Cause v. Boatwright (App. 1 Dist.1987) 240 Cal.Rptr. 794, 195 C.A.3d 562.

2. **Good faith**

Evidence was sufficient to support finding that even if state assemblyman and later state senator received more than he paid for his shares in partnership, any failure to declare difference as either income or gift was inadvertent rather than intentional or negligent, and that he had made good faith effort to comply with recording requirements of this title, given uncertainties in liabilities which he faced and difficulty in determining actual value of minority shares in partnership at time. Community Cause v. Boatwright (App. 1 Dist.1987) 240 Cal.Rptr. 794, 195 C.A.3d 562.

When a person who is subject to reporting requirements of this title purchases partnership interest in real property, if person knows or reasonably should have known that he has received value in excess of consideration paid, which includes liabilities assumed, and knows or reasonably should have known the amount of excess value, he must report that difference, either as income or as gift. Community Cause v. Boatwright (App. 1 Dist.1987) 240 Cal.Rptr. 794, 195 C.A.3d 562.

§ 87204. Persons leaving office; statement

Every person who leaves an office specified in Section 87200 shall, within thirty days after leaving the office, file a statement disclosing his investments, his interests in real property, and his income during the period since the previous statement filed under Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975.)

Law Review Commentaries

Proposition 9. Joanne Garvey and Vigo Nielsen, Jr. (1975) 50 S. Bar J. 254.

§ 87205. Assuming or leaving office; determination

A person who completes a term of an office specified in Section 87200 and on the same day begins a term of the same office or another such office of the same jurisdiction is not deemed to assume office or leave office.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975. Amended by Stats.1977, c. 1193, p. 3966, § 14.)

§ 87206. Investment or interest in real property; statement; contents

When an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds one thousand dollars ($1,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand

Law Review Commentaries

Review of selected 1990 California legislation. 22 Pac.L.J. 542 (1991).

Library References

Elections ⇐311.2(1), 317.4.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 329, 334(1).

§ 87400. Definitions

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this article.

(a) "State administrative agency" means every state office, department, division, bureau, board and commission, but does not include the Legislature, the courts or any agency in the judicial branch of government.

(b) "State administrative official" means every member, officer, employee or consultant of a state administrative agency who as part of his or her official responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or ministerial capacity.

(c) "Judicial, quasi-judicial or other proceeding" means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency, including but not limited to any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(d) "Participated" means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an officer or employee, but excluding approval, disapproval or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

(Added by Stats.1980, c. 66, p. 173, § 1.)

Library References

Words and Phrases (Perm.Ed.)

§ 87401. Representation by former state official as agent or attorney before court or state agency; appearance or communication; prohibition

No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any

oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

(Added by Stats.1980, c. 66, p. 174, § 1. Amended by Stats.1985, c. 775, § 5.)

Historical and Statutory Notes

Amendment of this section by Initiative Measure (Prop. 131) was rejected at the Nov. 6, 1990, general election.

The 1985 amendment deleted subd. designation (a) preceding "by making any formal or informal appearance"; added "both of the following apply" to the introductory paragraph; redesignated former subds. (b) and (c) as subds. (a) and (b); and made other nonsubstantive changes.

§ 87402. Aid, advice, counsel, consultation, or assistance by former state officials; prohibition

No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

(Added by Stats.1980, c. 66, p. 174, § 1.)

Historical and Statutory Notes

Amendment of this section by Initiative Measure (Prop. 131) was rejected at the Nov. 6, 1990, general election.

§ 87403. Exemptions from the prohibitions of §§ 87401 and 87402

The prohibitions contained in Sections 87401 and 87402 shall not apply:

(a) To prevent a former state administrative official from making or providing a statement, which is based on the former state administrative official's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses, or

(b) To communications made solely for the purpose of furnishing information by a former state administrative official if the court or state administrative agency to which the communication is directed makes findings in writing that:

(1) The former state administrative official has outstanding and otherwise unavailable qualifications;

(2) The former state administrative official is acting with respect to a particular matter which requires such qualifications; and

(3) The public interest would be served by the participation of the former state administrative official; or

(c) With respect to appearances or communications in a proceeding in which a court or state administrative agency has issued a final order, decree, decision or judgment but has retained jurisdiction if the state administrative agency of former employment gives its consent by determining that:

(1) At least five years have elapsed since the termination of the former state administrative official's employment or term of office; and

(2) The public interest would not be harmed.

(Added by Stats.1980, c. 66, p. 174, § 1.)

§ 87404. Exclusion of person in violation of article; petition; hearing

Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Section 11512 of the Government Code, in any judicial, quasi-judicial or other proceeding, including but not limited to any proceeding pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this article from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

(Added by Stats.1980, c. 66, p. 175, § 1.)

§ 87405. Prospective application of article

The requirements imposed by this article shall not apply to any person who left government service prior to the effective date of this article except that any such person who returns to government service on or after the effective date of this article shall thereafter be covered thereby.

(Added by Stats.1980, c. 66, p. 175, § 1.)

§ 87406. Milton Marks Postgovernment Employment Restrictions Act of 1990

(a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b) No Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) No elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal

...ons, spouse and dependent children own ...ator

Notes

The amount of the value of gifts subject to ...of Section 87103 of the Government Code ...ter January 1, 1995, be two hundred seventy (270) until adjusted by the Fair Political Practices ...at the same time and in the same amount as ...determined pursuant to subdivision (e) of ...604."

The Legislature finds and declares that the ...of this act further the purpose of the Political ...of 1974 within the meaning of subdivision (a) ...812 of the Government Code."

...commission, industry as a public interest, see ...ricultural Code § 78609.

...ies

(Court (Degnan) (App. 1 Dist. 1994) 36 Cal. 31 Cal.App.4th 205.

...reasonably foreseeable" that preliminary ...general litigation that precluded county from ...hospitals could effect security of county super- ...wife's employment as county physicians ...supervisor's participation in county supervisors' ...appeal federal order did not violate Political ...although witness' declaration opined that ...impact on physician employees if county ...were required to practice in-patient services at ...this, federal injunction required no change in ...services. Smith v. Superior Court (Degnan) 1994) 30 Cal.Rptr.2d 887, 31 Cal.App.4th 205.

...or attorney; limitations

...act as an agent or attorney for, or ...or informal appearance before, or by ...cy or any officer or employee thereof, ...influencing action on a contract, grant,

...defined in Section 82048, and every ...committee is created by statute or

...S.B.1075), § 3, eff. Sept. 1, 1994.)

...es

...ature finds and declares that the provisions ...ther the purposes of the Political Reform ...within the meaning of subdivision (a) of ...of the Government Code."

Article 2

DISCLOSURE

§ 87200. Applicability

Code of Regulations References

Other public officials who manage public investments, see 2 Cal. Code of Regs. §18720.

Law Review Commentaries

Should Practicing Lawyers be Legislators. George F. Carpinello, 41 Hastings L.J. 87 (1989).

§ 87201. Candidates; statement

Law Review Commentaries

Review of selected 1992 California legislation. 24 Pac. L.J. 863 (1993).

§ 87203. Annual statement

Library References

California Practice Guide: Civil Trials and Evidence, Wegner, Fairbank, Epstein & Chernow, see Guide's Table of Statutes for chapter paragraph number references to paragraphs discussing this section.

§ 87207. Income; statement; contents

Cross References

Exception, reimbursements by special districts, see Government Code § 53065.5.

Article 3

CONFLICT OF INTEREST CODE

Code of Regulations References

Miscellaneous conflict of interest codes, 2 Cal.Code of Regs. § 22100 et seq.

Department of toxic substances control, see 2 Cal. Code of Regs. § 54800.

§ 87306. Amendments; changed circumstances; court order; biennial report

Code of Regulations References

Conflict of interest, general provisions, see 4 Cal.Code of Regs. § 2000.

Article 4

DISQUALIFICATION OF FORMER OFFICERS AND EMPLOYEES

Section		Section	
87406.	Milton Marks Postgovernment Employment Restrictions Act of 1990.		attorney before district board; appearance or communication for purpose of influencing regulatory action; prohibition.
87406.1.	Representation by former district member, officer or employee as agent or		

§ 87406. Milton Marks Postgovernment Employment Restrictions Act of 1990

(a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b) No Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) No elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the Worker's Compensation Appeals Board.

(d)(1) No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative <u>or legislative</u> action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Worker's Compensation Appeals Board. The prohibition of this paragraph shall only apply to designated employees employed by a state administrative agency on or after January 7, 1993.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to any individual subject to this section who is or becomes an officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(f) This section shall become operative on January 1, 1991, but only if Senate Constitutional Amendment No. 32 of the 1989-90 Regular Session is approved by the voters.[1] With respect to Members of the Legislature whose current term of office on January 1, 1991, began in December 1988, this section shall not apply until January 1, 1993.

(Amended by Stats.1993, c. 230 (S.B.230), § 1.)

[1] Approved by the voters as Proposition 112 on June 5, 1990.

Historical and Statutory Notes

1993 Legislation

The 1993 amendment, toward the end of the first sentence of subd. (d)(1), inserted "or legislative" following "purpose of influencing administrative".

The Senate Daily Journal for the 1993-94 Regular Session, page 2465, contained the following letter dated 7/30/93 from the Governor regarding S.B. 230 (Stats.1993, c. 230):

"I have signed this date Senate Bill No. 230.

"This bill would prohibit an employee of a state administrative agency from lobbying his or her previous state administrative agency in an effort to influence legislative action, for one year after such employee leaves state service. Such employees are currently prohibited from lobbying their previous state agencies regarding regulatory actions.

"Although I have signed this legislation, I believe that these provisions inequitably impose restrictions on state employees that are not imposed on legislative employees.

"Unlike Executive Branch employees, legislative employees are not prohibited from lobbying the legislature after they leave their jobs. Lobbying on legislative matters, however, occurs in both the legislative and executive branches of government. To restrict the legislative lobbying of Executive Branch employees, but not impose identical restrictions upon legislative employees, disadvantages Executive Branch employees simply because of where they served in state government.

"If the concept of preventing lobbying on behalf of others a 12 month period after employment in state service is sound for Executive Branch employees, it is equally if not more sound for legislative employees.

"Therefore, I would support subsequent legislation that would impose like restrictions on employees of the state Legislature."

Law Review Commentaries

Review of selected 1993 California legislation. 25 Pac. L.J. 803 (1994).

§ 87406.1. Representation by former district member, officer or employee as agent or attorney before district board; appearance or communication for purpose of influencing regulatory action; prohibition

(a) For purposes of this section, "district" means an air pollution control district or air quality management district and "district board" means the governing body of an air pollution control district or an air quality management district.

(b) No former member of a district board, and no former officer or employee of a district who held a position which entailed the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, shall, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that district board, or any committee, subcommittee, or present member of that district board, or any officer or employee of the district, if the appearance or communication is made for the purpose of influencing regulatory action.

(c) Subdivision (b) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another district or an employee or representative of a public agency.

(d) This section applies to members and former members of district hearing boards.

(Added by Stats.1994, c. 747 (A.B.3214), § 1.)

Law Review Commentaries

Review of selected 1994 California legislation. 26 Pac L.J. 202 (1995).

Article 5

FILING

Section
87500. Statements of economic interests.

§ 87500. Statements of economic interests

Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy

Code of Regulations References

Reports and statements, filing dates, see 2 Cal. Code of Regs. § 18116.

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern L.R. 453.

§ 82036.5. Late independent expenditure

"Late independent expenditure" means any independent expenditure which totals in the aggregate one thousand dollars ($1,000) or more and is made for or against any specific candidate or measure involved in an election before the date of the election but after the closing date of the last campaign statement required to be filed prior to the election by a candidate or committee participating in such election.

(Added by Stats.1980, c. 289, p. 602, § 5.1.)

Cross References

Reporting of late independent expenditures, see § 84204.

Code of Regulations References

Reports and statements, filing dates, see 2 Cal. Code of Regs. § 18116.

§ 82037. Legislative action

"Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity. "Legislative action" also means the action of the Governor in approving or vetoing any bill.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975.)

Code of Regulations References

Lobbyist, defined, see 2 Cal. Code of Regs. § 18239.
Public official making, participation in making a governmental decision, see 2 Cal. Code of Regs. § 18700.

Law Review Commentaries

Proposition 9. Joanne Garvey and Vigo Nielsen, Jr. (1975) 50 S. Bar J. 254.

§ 82038. Legislative official

"Legislative official" means any employee or consultant of the Legislature whose duties are not solely secretarial, clerical or manual.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975.)

Historical and Statutory Notes

Derivation: Elec.C.1939, §§ 4500, 4750 (Stats.1939, c. 26, pp. 192, 198).

Elec.C. former § 11500, added by Stats.1961, c. 23, p. 745, § 11500.

Elec.C. former § 11800, added by Stats.1961, c. 23, p. 751, § 11800, amended by Stats.1969, c. 106, p. 239, § 2; Stats.1970, c. 379, p. 794, § 1.

Stats.1921, c. 583, p. 983, § 1; Stats.1923, c. 391, p. 847, § 1.

§ 82001. Adjusting an amount for cost of living changes

"Adjusting an amount for cost-of-living changes" means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975. Amended by Stats.1978, c. 199, p. 438, § 1, eff. June 6, 1978.)

§ 82002. Administrative action

"Administrative action" means the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975. Amended by Stats.1991, c. 491 (S.B.28), § 3.)

Code of Regulations References

Quasi-legislative administrative action, see 2 Cal. Code of Regs. § 18202.

§ 82003. Agency

"Agency" means any state agency or local government agency.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975.)

§ 82004. Agency official

"Agency official" means any member, officer, employee or consultant of any state agency who as part of his official responsibilities participates in any administrative action in other than a purely clerical, secretarial or ministerial capacity.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975.)

Cross References

Public official, see § 82048.

Code of Regulations References

State agency, see 2 Cal. Code of Regs. § 18249.

within 24 hours of the time of the contribution and within 24 hours of its receipt by the recipient.

(c) Notwithstanding subsection (a), late expenditure reports filed pursuant to Government Code Section 84204 must be reported by the person making the expenditure within 24 hours of the time it is made.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 82036, 82036.5, 84203 and 84204, Government Code.

HISTORY

1. New section filed 12-27-77; effective thirtieth day thereafter (Register 77, No. 53).
2. Amendment filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
3. Amendment of subsections (b) and (c) filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).

Chapter 2. Definitions

§ 18202. Quasi-Legislative Administrative Action.

(a) A proceeding of a state agency is not a quasi-legislative proceeding for the purposes of Government Code Section 82002 if it is any of the following:

(1) A proceeding to determine the rights or duties of a person under existing laws, regulations or policies.

(2) A proceeding involving the issuance, amendment or revocation of a permit or license.

(3) A proceeding to enforce compliance with existing law or to impose sanctions for violations of existing law.

(4) A proceeding at which an action is taken involving the purchase or sale of property, goods or services by such agency.

(5) A proceeding at which an action is taken which is ministerial in nature.

(6) A proceeding at which an action is taken awarding a grant or contract.

(7) A proceeding involving the issuance of a legal opinion.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 82002, Government Code.

HISTORY

1. New section filed 9-18-75; effective thirtieth day thereafter (Register 75, No. 38). For prior history of Chapter 2, see Register 75, No. 27.
2. Amendment filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).

§ 18204.5. Substantial or Regular—Local Government Employees.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 82039 and 86105-86109, Government Code.

HISTORY

1. New section filed 3-3-75 as an emergency; effective upon filing (Register 75, No. 10).
2. Repealer filed 6-30-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 27).

§ 18208.5. Lobbyist Firms—Definitions and Reporting Requirements.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 86108, Government Code.

HISTORY

1. New section filed 4-10-75 as an emergency; effective upon filing (Register 75, No. 15).
2. Repealer filed 8-1-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 31).

§ 18215. Contribution.

(a) A contribution is any payment made for political purposes for which full and adequate consideration is not made to the donor. A payment is made for political purposes if it is:

(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or

(2) Received by or made at the behest of the following or any agent thereof:

(A) A candidate;

(B) A controlled committee;

(C) An official committee of a political party, including a state central committee, county central committee, assembly district committee or any subcommittee of such committee; or

(D) An organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union or corporation.

(b) The term "contribution" includes:

(1) Any payment made to a person or organization other than a candidate or committee, when, at the time of making the payment, the donor knows or has reason to know that the payment, or funds with which the payment will be commingled, will be used to make contributions. If the donor knows or has reason to know that only part of the payment will be used to make contributions or expenditures, the payment shall be apportioned on a reasonable basis in order to determine the amount of the contribution.

There shall be a presumption that the donor does not have reason to know that all or part of the payment will be used to make expenditures or contributions, unless the person or organization has made expenditures or contributions of at least one thousand dollars ($1,000) in the aggregate during the calendar year in which the payment occurs, or any of the immediately preceding four calendar years.

(2) A candidate's own money or property used on behalf of his or her candidacy.

(3) Any goods or services received by or behested by a candidate or committee at no charge or at a discount from the fair market value, unless the discount is given in the regular course of business to members of the public.

(c) Notwithstanding any other provision of this section, the term "contribution" does not include:

(1) An expenditure made at the behest of a candidate in connection with a communication directed to voters or potential voters as part of voter registration activities or activities encouraging or assisting persons to vote, if the expenditure does not constitute express advocacy.

(2) Volunteer personal services or payments made by a person for his or her own travel expenses, if such payments are made voluntarily without any understanding or agreement that he or she will be repaid.

(3) A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office, if the total cost of the meeting or fundraising event is $500 or less, exclusive of the fair rental value of the premises.

(4) A payment made at the behest of a candidate, which is for a communication by the candidate or any other person, that meets all of the following:

(i) Does not contain express advocacy;

(ii) Does not make reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for office; and

(iii) Does not solicit contributions to the candidate or to third persons for use in support of the candidate or in opposition to the candidate's opponent.

(5) A payment made by a candidate or committee for another candidate to attend the paying candidate's or committee's fundraiser.

(6) A payment made by a candidate for a communication publicizing his or her endorsement by another candidate, provided that the communication does not expressly advocate the nomination or election of the endorsing candidate or the defeat of an opponent of the endorsing candidate.

(7) A payment made by a ballot measure committee for a communication in which the ballot measure supported or opposed by the committee is endorsed or opposed by a candidate, and the communication does not expressly advocate the nomination or election of the endorsing candidate or the defeat of an opponent of the endorsing candidate.

California
Fair Political
Practices Commission

May 12, 1986

Linda Goff Evans
P.O. Box 4238
Arcata, CA 95521

Re: Your Request for Informal Assistance
Our File No. I-86-117

Dear Ms. Evans:

Thank you for your letter requesting general guidance concerning your duties under the "revolving door" provisions of the Political Reform Act (the Act).[1] Because your request is for general guidance and does not concern a specific fact situation, we will treat it as a request for Informal Assistance under regulation 2 Cal. Adm. Code Section 18329 (copy enclosed).

FACTS

You have been employed by the California Coastal Commission since January 1979. In your letter you stated that at the end of April you would leave your position as a Coastal Program Analyst II and accept a temporary position with the Humboldt County Planning Department as a Planner II. As an employee of the Coastal Commission, your work involved certain aspects of projects located in Humboldt County.

In your letter, you provided the following information about your duties as a Coastal Commission employee and your new position in the Humboldt County Planning Department:

> From September 1985 to the present, I have been working half-time under the supervision of Pat Stebbins, Coastal Access Manager, doing research,

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1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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writing, and graphics for the Resources Guide, a book that the Coastal Commission is producing. Between January 1979 and August 1985, I worked full time under the supervision of either B. Noah Tilghman, Bruce Fodge, or Rick Rayburn, performing permit and planning functions in the North Coast District of the Calif. Coastal Commission. My duties as a Coastal Program Analyst in the North Coast District included processing permits, enforcement, violations, reviewing and commenting on environmental documents, monitoring local government issued coastal development permits of post-certified Land Use Plans, and LUP's and amendments in portions of Humboldt and Mendocino Counties. Local Coastal Programs in Humboldt County that were assigned to me included the Eel River Area Plan and the Southcoast Area Plan, LUP amendments at specific sites county-wide, and filling in as needed on LUP's, permits and Post Cert monitoring in other parts of Humboldt County outside of Southcoast and Eel River areas. In addition to the planning and permits, I also worked with Humboldt County, among other agencies, as district access coordinator. This involved planning locations and methods for improving public access, trail and support facilities.

My position with the Humboldt County Planning Department is anticipated to be working principally on current planning projects -- processing permits, variances, lot line adjustments, subdivisions, residential and commercial development projects -- and any other special assignments as needed. Although I have been informed that I will not be assigned projects from the Southcoast Area (specifically from Shelter Cove) since that area is assigned to another county planner, it is quite possible that I would be working on coastal development permits or other projects in other coastal areas of Humboldt County.

QUESTION

You have asked whether, as a former Coastal Commission employee, there will be any restrictions on your participation in planning matters as an employee of the County of Humboldt.

ANALYSIS

The following is a general analysis concerning the restrictions of Sections 87400, et seq., the so-called "revolving door" provisions of the Act. Because you have

provided only general information as to your responsibilities as an employee of the Coastal Commission and your anticipated responsibilities as an employee of Humboldt County, we can give you only this general guidance at this time. However, if, in the future, you have questions regarding a specific situation, you should contact this office for specific advice.

Sections 87401 and 87402 provide:

> 87401. No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:
>
> (a) The State of California is a party or has a direct and substantial interest.
>
> (b) The proceeding is one in which the former state administrative official participated.
>
> 87402. No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

Your employment with the Coastal Commission makes you a state administrative official who is subject to the restrictions of Sections 87401 and 87402. Section 87400(b). Therefore, you are prohibited from representing, aiding, advising, counseling, consulting, or assisting in representing any person,[2] for compensation, in connection with any

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[2] "Person" is broadly defined under the Act to include any organization or group of persons acting in concert. Section 82047. Accordingly, Sections 87401 and 87402 restrict your ability to represent either individuals or the County in certain proceedings.

proceeding involving specific parties in which you participated as a Coastal Commission employee.

You should note that, for purposes of Sections 87401 and 87402, you "participated" in a proceeding if you took part in the proceeding "personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information" as an employee of the Coastal Commission. This would include any proceeding in which you had only a supervisory role.

Under the Coastal Act, there are three distinct phases which are subject to the jurisdiction of the Coastal Commission: the land use plan, the approval of zoning pursuant to the provisions of the general plan, and specific coastal development permit approval. For purposes of Sections 87401 and 87402, each of these phases is a different proceeding. Therefore, your participation, as a Coastal Commission employee, in the County's land use plan or amendments to the land use plan would not prevent you from participating, as a County employee, in the review and approval of local coastal permit applications which implement the County's land use plan. The provisions of Sections 87401 and 87402 prohibit your participation in the <u>same</u> proceeding in which you participated as a state employee, but do not restrict your ability to participate in <u>new</u> proceedings.

You should note that Section 87400(c) provides that a "proceeding" is "any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter <u>involving a specific party or parties</u> in any court or state administrative agency" (emphasis added). Therefore, the restrictions of Sections 87401 and 87402 apply only to matters involving a specific party or parties, rather than matters concerning general rules of applicability.

The specific coastal permit application is the type of matter which most clearly is a "proceeding" for purposes of Sections 87401 and 87402, in that it affects a specific party or parties. Therefore, you may not represent or assist the County of Mendocino, or any other person, in any aspect of a coastal permit application proceeding in which you participated as a Coastal Commission employee. However, once the final decision on a coastal permit application proceeding in which you did participate has been made, you would not be prohibited from participating in new proceedings related to that same coastal permit application. I have enclosed a copy of the

Galanter letter (No. A-82-079), which discusses specific fact situations concerning what is, or is not, a new proceeding.

As a Coastal Commission employee, you also participated in matters involving land use plans and land use plan amendments at specific sites in Humboldt County. Whether these matters are considered "proceedings" for purposes of Sections 87401 and 87402 depends on whether they affected only a specific party or parties, rather than a significant segment of the properties within the jurisdiction of the land use plan. If your responsibilities as a County employee involve assisting the County in amendments to its land use plan, and your responsibilities as a Coastal Commission employee included participation in the review of those same amendments, you should ask yourself if the amendments affect only a specific party or parties. If the answer to that question is yes, then you must refrain from representing or assisting the County on that matter. However, if the answer is no, then you may represent or assist the County on the amendments.

In certain instances, the County may be the specific party affected in a proceeding, for example if the County initiated the proceeding on its own initiative rather than at the request of another person. In that instance, if you participated in the proceeding as a Coastal Commission employee, you should refrain from participating in the same proceeding as a County employee.

To summarize, you may not represent or assist the County or any other person in a proceeding affecting specific parties in which you participated as an employee of the Coastal Commission. You may represent the County or other persons in new proceedings, however.

If you have any questions regarding this letter, please contact me at (916) 322-5901.

Very truly yours,

Kathryn E. Donovan

Kathryn E. Donovan
Counsel
Legal Division

KED:plh
Enclosure

Califc nia
Fair Political
Practices Commission

March 7, 1990

James McGrath
Environmental Manager
Port of Oakland
530 Water Street
Oakland, CA 94607

Re: Your Request for Advice
Our File No. A-90-085

Dear Mr. McGrath:

This is in response to your letter requesting advice regarding your responsibilities as a former Coastal Program Analyst III with the California Coastal Commission under the "revolving-door" provisions of the Political Reform Act (the "Act").[1/]

QUESTIONS

You have recently left employment with the California Coastal Commission to take a position with the Port of Oakland as the port's environmental manager. As an employee of the Port of Oakland:

1. May you participate in the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project?

2. May you participate in the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project if the specific elements of phase one or of the subsequent portions are different from the elements you considered in the California Coastal Commission proceeding in which you were involved?

3. If you are prohibited from participating in any of the aforementioned activities, what steps should you take to ensure that you will not be in violation of the Act?

4. If you are prohibited from participating in any of the aforementioned decisions, may your staff continue to participate with or without your involvement?

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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5. Are there any constraints on your use of knowledge obtained as an employee of the California Coastal Commission for the benefit of the Port of Oakland?

6. May you participate as a representative of the Port of Oakland and appear before the Environmental Protection Agency and the California Coastal Commission concerning the designation of a permanent disposal site for use by the Port of Oakland, as well as other governmental entities?

CONCLUSIONS

As an employee of the Port of Oakland:

1. You may participate in the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project to the extent that the State of California is not a party nor has any direct and substantial interest in the proceeding. However, because your involvement in the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project concerned both the Coastal Commission's federal consistency review of the various phases of the project and the litigation that resulted, you may not participate in any Coastal Commission federal consistency review proceedings involving the project nor the litigation in which the Coastal Commission and the Port of Oakland are parties.

2. You may not participate in the federal consistency review of the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project even if the parties primarily responsible for the project or the quantities to be dredged are modified. Mere changes in the parties primarily responsible for the project or the quantities to be dredged in the project would not constitute a new proceeding before the Coastal Commission.

However, you may participate in other aspects of the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project and subsequent projects concerning the Port of Oakland and the Coastal Commission which do not involve the federal consistency review proceeding in which you were involved. These are different proceedings under the Act.

3. Once it is determined that you are disqualified from participating in a proceeding due to your prior involvement in the proceeding as a Coastal Commission employee, you may not do any of the following: Appear before the Coastal Commission on behalf of another in that proceeding; contact any officer of the Coastal Commission in any manner with the intent to influence the official with respect to the proceeding; or, aid, advise, counsel, consult or assist <u>any other person</u> in the proceeding.

4. The prohibition does not apply to the involvement of your staff. However, you may not aid, advise, counsel, consult or assist your staff in representing the Port of Oakland in the proceeding for which you are disqualified.

5. There are no constraints on the use of knowledge obtained as an employee of the California Coastal Commission for the benefit of the Port of Oakland provided you do not aid, advise, counsel, consult or assist in representing any other person in any proceeding before the Coastal Commission in which you are disqualified.

6. You may participate as a representative concerning designation of the permanent disposal site. Discussions geared at establishing a permanent offshore marine disposal site were not proceedings concerning specific projects and specific applicants. The designation of a permanent disposal site has a general effect on all those that might use the site, not just on the Port of Oakland's ability to dispose of material at the site. Where governmental proceedings are of a general nature, you are not precluded from participating.

FACTS

You have been employed with the Coastal Commission since 1977 as a Coastal Program Analyst III. On January 30, 1990 you left the Coastal Commission and began working for the Port of Oakland (the "port") as the port's environmental manager. The environmental manager of the port advises and participates in port decisions, supervises the analysis of environmental issues affecting the port and implements environmental requirements. You have asked whether your work with the port will be restricted by the revolving-door provisions of the Act.

Your principal duties at the Coastal Commission since 1981 involved supervising several junior coastal program analysts in the Coastal Commission's federal consistency program.[2/] This program is based on the Federal Coastal Zone Management Act which gives the California Coastal Commission limited regulatory authority with respect to federal and federally permitted activities that affect the coastal zone. Under the Federal Coastal Zone Management Act, the Coastal Commission may review specified federal licenses and permits which affect land and water uses in the coastal zone for consistency with state interests.

In connection with your duties, you have been involved in the following:

1. The Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project. This project was jointly sponsored by the port and the United States Army Corps of Engineers (the "corps") and involves the dredging of the entrance channel to the harbor to

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2/ You also stated that you were involved in a variety of special projects concerning water quality, wetlands, shoreline processes, and hydraulic engineering. However, without more specific facts on these projects we cannot determine whether any of these projects created restrictions pursuant to the revolving-door provisions of the Act.

deepen the channel. The Coastal Commission's involvement in the project was divided into three parts:

a) Corps Negative Determination Statement and Draft Environmental Impact Statement ("EIS"): In September 1987 the corps submitted a negative determination statement and draft EIS concerning the first phase of the project. The statement detailed the dredging and disposal of 2.7-million cubic yards of dredge material from a disposal site at Alcatraz and transporting it to a marine site 10 miles off shore. The Alcatraz site was being prepared to accept the material dredged from the entrance channel to the harbor. However, because the corps planned to dump dredge material into waters under the Coastal Commission's jurisdiction, the corps filed a negative determination statement and a draft EIS asserting that the project would have only a de minimus impact on the Coastal Commission's jurisdiction. The draft EIS described the project as a corps project, with the port providing monetary support. You stated that you supervised the work of your staff's review of the negative determination statement and the draft EIS which resulted in the granting of the negative determination statement. The granting of the negative determination statement exempted the project from federal consistency review.

b) Corps Final EIS: In April 1988, the Coastal Commission was asked to review, this time informally, the final EIS concerning the first phase of the project. However, the final EIS described a greatly modified project. The first phase had been broken down into two parts. The first part, for which the final EIS was submitted, involved the dredging of the port's channel and direct deposit of the material into a different temporary disposal site off shore of Half Moon Bay in San Mateo County. In addition, the amount to be dredged in the first part of phase I had been reduced to 500,000 cubic yards. The second part of phase I would deal with the rest of the material initially proposed, but was not covered in the request.

The Coastal Commission responded to the corps request with an informal letter. You stated that you supervised the review of the final EIS and the preparation of the letter sent in response.

c) The Lawsuit: In late May 1988, San Mateo County sued the port and the Coastal Commission seeking to enjoin phase I of the project until the port submitted and the Coastal Commission reviewed a federal consistency certification. The injunction was granted and the decision was appealed. You stated that you were involved both directly and in a supervisory capacity in the legal proceeding by providing information and discussing the course of the litigation with Coastal Commission attorneys.

The Coastal Commission's current position is that federal consistency review will be required for transport and disposal of dredge materials resulting from the project, irrespective of the parties or sites involved.

2. You have also been involved in informal multi-agency efforts to examine issues associated with the transportation and

disposal of dredge materials from San Francisco Bay, including the Port of Oakland, through the Coastal Commission's coastal zone. The discussions focused on establishing a permanent offshore marine disposal site.

In furtherance of this project you have participated in discussion meetings, in-house planning sessions and public hearings with the Bay Conservation and Development Commission, water agencies, the corps, the Environmental Protection Agency, the port, local governments, commercial and sports fishing representatives and others.

ANALYSIS

The Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project

Sections 87401 and 87402 provide restrictions on the activity of administrative officials after leaving office. Section 87401 provides:

> No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:
>
> (a) The State of California is a party or has a direct and substantial interest.
>
> (b) The proceeding is one in which the former state administrative official participated.

In addition, Section 87402 provides:

> No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

Thus, the revolving-door prohibition in the Act applies to activities where all of the following apply:

1. A former state administrative official represents another person;

2. For compensation;

3. Before a court or administrative agency;

4. In a judicial, quasi-judicial or other proceeding;

5. The proceeding is one in which the former state administrative official participated; and,

6. The state is a party or has a direct and substantial interest.

As a Coastal Program Analyst III with the California Coastal Commission, you were a state administrative official for purposes of the revolving-door provisions of the Act.[3/] Consequently, you are prohibited from representing, aiding, advising, counseling, consulting or assisting other persons[4/] for compensation concerning Coastal Commission judicial, quasi-judicial or other proceedings when the State of California is a party or has a direct and substantial interest and the proceeding is one in which you participated.

The next question is whether your involvement in the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project was involvement in a "judicial, quasi-judicial or other proceeding" for purposes of Sections 87401 and 87402. Section 87400(c) defines "judicial, quasi-judicial or other proceeding" to include:

> ... any proceeding, application, <u>request for a ruling or other determination</u>, contract, claim, controversy, investigation, charge, accusation, arrest or <u>other particular matter involving a specific party or parties</u> in any court or state administrative agency, including but not limited to any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.
>
> (Emphasis added.)

3/ "State administrative official" is defined to include every member, officer, employee or consultant of a state administrative agency who as part of his or her official responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or ministerial capacity. (Section 87400(b).)

4/ "Person" is defined for purposes of the Act to include an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (Section 82047.)

In September 1987 the corps submitted a negative determination statement and a draft EIS concerning the first phase of the project to the Coastal Commission. You stated that the application was submitted by the corps, although the project was sponsored by the Port of Oakland. At that time you supervised the work of your staff's review of the negative determination statement and the draft EIS which resulted in the granting of the negative determination statement. Such an application is a request for an official determination by the Coastal Commission that the project will have a negligible effect on Coastal Commission jurisdiction.

In addition, in April 1988, the Coastal Commission was asked to review the final EIS concerning the first phase of the project. However, the final EIS described a greatly modified project. The first phase had been broken down into two parts. The first part, for which the final EIS was submitted, involved the dredging of the port's channel and direct deposit of the material into a different temporary disposal site off shore of Half Moon Bay in San Mateo County. You stated that you supervised the review of the final EIS and the informal letter prepared and sent in response. This would also be considered a request for a determination by the Coastal Commission.

And finally, in May 1988, you were involved in a legal proceeding initiated by San Mateo County. San Mateo County sued the port and the Coastal Commission seeking to enjoin phase I of the project until the port submitted and the Coastal Commission reviewed a federal consistency certification. The injunction was granted and the decision appealed.

Based on these activities, we conclude that you participated[5/] in your official capacity in the federal consistency review of the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project, which was a judicial, quasi-judicial or other proceeding involving specific parties, namely the corps and the Port of Oakland. In addition, we conclude that you participated in your official capacity in the litigation concerning the federal consistency review of the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project, which was

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5/ Section 87400(d) defines "participated" to include involvement personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an officer or employee. This definition has been interpreted to include involvement in a proceeding in a supervisory role as well as personally. (Evans Advice Letter, No. I-86-117, copy enclosed.)

also a judicial, quasi-judicial or other proceeding involving specific parties.[6/]

Consequently, you may not represent the Port of Oakland before the Coastal Commission with respect to the federal consistency review of the Oakland Inner and Outer Harbor Deep Draft Navigation Improvement Project.[7/] Further, you may not participate or aid the port with respect to the litigation involving the federal consistency review of the project.

However, if the project changes to such an extent that the Coastal Commission determines there must be a reapplication or amendment proceeding, you may participate in that proceeding since it is considered a separate proceeding from the initial application. (Cohelan Advice Letter, No. A-85-175, copy enclosed.) Mere changes in the parties primarily responsible for the project or the quantities involved in the project would not, however, constitute a new proceeding.

Further, you may participate in subsequent portions of the project concerning the port which involve different facts and issues. These would be different proceedings under the Act. (Witz Advice Letter, No. A-88-382; Galanter Advice Letter, No. 82-079, copies enclosed.) Thus, if the port sought some other Coastal Commission permit with respect to the project or initiated new projects regarding the channel or port, you may participate.

Participation

Once it is determined that you are disqualified from participating in a proceeding due to your prior involvement in the proceeding as a Coastal Commission employee, Section 87401 prohibits you from:

1. Appearing before the Coastal Commission on behalf of another; or,

2. Contacting any officer or employee of the Coastal Commission in any manner with the intent to influence.

6/ On each occasion, despite the fact that corps initiated most of the contacts with the Coastal Commission, you were aware that the project was jointly sponsored by the corps and the port, and that the project was being performed for the benefit of the port. Thus, in each instance the specific parties to the proceeding were the corps and port.

7/ We have said in the past that large and complex proceedings may be divided into separate phases so that a former public official may still participate in other phases of the proceeding. Here, it appears your participation in the federal consistency review of the project and subsequent litigation involved the entire project, not just a limited portion.

In addition, Section 87402 prohibits you from aiding, advising, counseling, consulting or assisting <u>any other person</u> in the proceeding. However, this restriction does not apply to the involvement of your staff, provided you do not participate <u>in any way</u>. (<u>Zatopa</u> Advice Letter, No. A-82-095, copy enclosed.) Please note, however, that the prohibition in Sections 87401 and 87402 is very broad and you should use caution not to aid, advise, counsel, consult or assist in representing any other person in any proceeding in which you are prohibited from appearing.

<u>Designation of a Permanent Disposal Site</u>

In addition to your direct involvement with the port, you were also involved in informal multi-agency efforts to examine issues associated with the transportation and disposal of dredge materials from San Francisco Bay, including the Port of Oakland, through the Coastal Commission's coastal zone. These discussions were focused on establishing a permanent offshore marine disposal site. In furtherance of this project you have participated in discussion meetings, in-house planning sessions and public hearings with the Bay Conservation and Development Commission, water agencies, the corps, the Environmental Protection Agency, the port, local governments, commercial and sports fishing representatives and others.

While your participation in the proceedings to establish a permanent disposal site was substantial, the proceedings were not specific projects involving specific applicants. Instead, the designation of a permanent disposal site has a general effect on all those that might use the site, not just on the port's ability to dispose of material at the site. Where proceedings are of a general nature as here, we conclude that the prohibition in Sections 87401 and 87402 is not applicable. (<u>Fong</u> Advice Letter, A-88-024, copy enclosed.) The fact that your future activities may involve the same general policy decisions, and may further the goals with which you were involved as a public official, will not by itself, result in any conflict of interest under Section 87400 <u>et seq</u>. (<u>Ramirez</u> Advice Letter, A-83-203, copy enclosed.)

If any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel

By: John W. Wallace
Counsel, Legal Division

KED:JWW:plh

Enclosures

California Fair Political Practices Commission

March 11, 1986

Melvin L. Nutter
Wells Fargo Bank Building
100 Oceangate, Suite 720
Long Beach, CA 90802

Re: Your Request for Advice
Our File No. A-86-042

Dear Mr. Nutter:

Thank you for your request for advice concerning Government Code Sections 87401 and 87402.[1] The facts, as stated in your letter and in our telephone conversation, are as follows:

You are a former member and chairman of the California Coastal Commission. You are a practicing attorney at law and have been asked if you are available to advise and represent the owner of several large parcels of land in the Coastal Zone.

The parcels in question, as far as you know, have not been the subject of any coastal development permit applications before the Coastal Commission. However, they are located within a region for which a Land Use Plan has been prepared by local government. While a member of the Coastal Commission you participated in a hearing in which the Land Use Plan was denied. You also participated in a hearing in which the Coastal Commission suggested modifications to the Land Use Plan.

While the Land Use Plan covers a broad area and affects hundreds of parcels, both the Land Use Plan as submitted and the suggested modifications contain general policy provisions that could affect the use of the specific parcels in questions. For instance, the Coastal Commission suggested the

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1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

Land Use Plan be modified to prohibit the alteration of stream beds except under certain very limited situations. A stream is located on one of the parcels.

The Land Use Plan assigns to the parcels (as well as to all other parcels in the plan area) limitations on the kind of uses and the intensity of development to be permitted. The suggested modifications propose different uses and a lower intensity of development for the parcels in question.

The owner of the parcels is satisfied with the provisions contained in the Land Use Plan as submitted to the Coastal Commission, but not with the modifications suggested by the Commission.

As is its right, the local government elected not to accept the suggested modifications and instead resubmitted its Land Use Plan, without substantial change, to the Coastal Commission. You retired from the Coastal Commission before the Commission reviewed the resubmitted plan. Since your retirement the Commission has voted to deny the plan as resubmitted and has voted to certify the plan subject to many suggested modifications. The new suggested modifications affect the parcels in question much as the previous suggested modifications did.

Procedurally, the local government may elect to accept the suggested modifications or may elect to submit a new plan or even its old original plan to the Coastal Commission for further review. The owner of the parcels in question has a right to participate in subsequent hearings on the Land Use Plan. He may elect to file one or more coastal development applications with the Coastal Commission for projects that may or may not be consistent with the Land Use Plan as submitted by local government or as the suggested modifications might revise the Land Use Plan.

QUESTION

You have asked whether you may provide coastal planning or permit advice to the landowner, discuss with Commission representatives the Land Use Policies on behalf of the landowner, and represent the landowner before the Coastal Commission as he tries to frame a development plan for his parcels.

DISCUSSION

Section 87401 provides:

> No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:
>
> (a) The State of California is a party or has a direct and substantial interest.
>
> (b) The proceeding is one in which the former state administrative official participated.

Section 87402 provides:

> No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

You are clearly a "former state administrative official." Section 87400. The question then, is whether you participated in any "proceeding" which would prohibit you from advising the landowner or representing the landowner in discussions with staff or before the Coastal Commission.

Section 87400(c) defines "Judicial, quasi-judicial or other proceeding" as meaning:

> ... any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency, including but not limited to any proceeding governed

by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

In previous advice to the Coastal Commission, we stated:

> Generally, much of your planning activities would appear to be a proceeding affecting a large number of persons and thus exempt form the provisions of AB 1048. However, you indicate that occasionally a land use plan for large landholdings becomes a kind of planned unit development similar to a conditional use permit. In such a situation, the matter would become a matter affecting a specific party. Where you are making a decision which would impact upon a specific party or a specific property, you are engaged in an action which would be subject to the bill.
>
> Thus, if the plan imposes specific conditions on a party owning a specific piece of property, the former employee may not work for that party on that plan. On the other hand, if the plan is imposing specific conditions on many property owners within the jurisdiction of the plan, the former employee may work on the plan. We understand that the latter situation is more common than the former.[2]

You have indicated that both the Land Use Plan as submitted and the suggested modifications contain general policy provisions that could affect the use of the specific parcels in question. If any of the general policy provisions affect only the property owned by your potential clients or by your potential clients and a very limited number of other individuals, the planning activities of the Commission with respect to those parcels would be considered to be a "proceeding" within the meaning of the statute. However, if all of the specific conditions imposed on your potential clients' property are also imposed on many other landowners, the Commission's activities would not be considered to be a proceeding.

If you conclude that you participated in a proceeding within the meaning of the statute, the question becomes whether any proceeding in which you might become involved on behalf of the landowners would be the same proceeding in which you previously participated. This is a question which can be

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2/ See Advice Letter No. A-80-105.

answered only with additional facts not before us at this time. See enclosed Advice letter to Ruth Galanter, No. 82-079. You may wish to contact us for more specific advice as it becomes clear what matters the landowner will become involved in.

If you should have any questions, or if I can be of further assistance, please do not hesitate to contact me at (916) 322-5901.

Very truly yours,

John G. McLean

John G. McLean
Counsel
Legal Division

JGM:plh
Enclosure

State of California

Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 428 J STREET, STE 800, SACRAMENTO, 95814

Technical Assistance (916) 322-5662 •• Administration 322-5660 •• Executive/Legal 322-5901 •• Enforcement 322-6441

September 13, 1985

Timothy Cohelan
Cohelan, Khoury & Flaherty
2540 First Avenue
San Diego, CA 92103

Re: Your Request for Advice
Our File No. A-85-175

Dear Mr. Cohelan:

This letter is in response to your letter requesting advice concerning your obligations under Government Code Sections 87100, et seq., of the Political Reform Act.[1/] You were a member of the San Diego Regional Coastal Commission from 1977-1981. Presently, you are in a law firm that represents clients before the California Coastal Commission. Your law firm wishes to submit a proposal in response to a Request for Proposals from the San Diego Unified Port District for "Legislative Advocacy Services" before the Coastal Commission. According to the RFP, the Port District seeks advice and representation before the California Coastal Commission in Master Plan Amendment processing and permit matters. You asked whether you are precluded from performing these services.

CONCLUSION

You are not prohibited from representing the Port District before the Coastal Commission in connection with the Port District Master Plan Amendment proceedings. You may be precluded from representing the Port District on any specific permit matters with which you were involved as a member of the Regional Coastal Commission.

[1/] The Political Reform Act is contained in Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

DISCUSSION

Section 87401 prohibits a former state administrative official, after the termination of his term of office, from representing for compensation any other person (other than the State of California) before any court or state administrative agency in a judicial quasi-judicial or other proceeding if:

1. The State of California is a party or has a direct and substantial interest; and

2. The proceeding is one in which the former state administrative official participated.[2/]

The phrase "judicial, quasi-judicial or other proceeding" means "any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency...." Section 87400(c).

When you were a member of the Regional Coastal Commission, you participated in proceedings relating to the Master Plan of the Port District. As a consultant for the Port District, you would represent the District in Master Plan Amendment proceedings.[3/] A ~~port~~ master plan is similar to a city general plan both in required content and in the process for adoption. The Coastal Commission must certify all Port Master Plans and Plan amendments. It is our view that these types of proceedings are not covered by Section 87400, et seq., since the plans are general in nature and in application and do not involve specific individuals or entities. Accordingly, Section 87401 does not preclude you from representing the Port District in Master Plan Amendment proceedings.[4/]

[2/] Section 87402 contains a corresponding prohibition on advising, counseling, consulting or assisting under these circumstances.

[3/] All of these proceedings are conducted pursuant to the California Coastal Act. Pub. Resources Code Section 30710, et seq.

[4/] We do not reach the issue of whether a plan amendment proceeding is the "same proceeding" as the plan adoption proceeding since it is not necessary to our conclusion.

Please note, however, that you should not represent the Port District in any permit matters in which you participated as a Regional Coastal Commissioner. Coastal permit proceedings are covered by Sections 87401 and 87402.

I am also enclosing copies of recent staff advice letters concerning the possible financial disclosure obligations of attorneys who lobby for or represent public agencies.

Please feel free to contact me if I can be of further assistance.

Sincerely,

Diane Maura Fishburn

Diane Maura Fishburn
Staff Counsel
Legal Division

DMF:plh
Enclosures

State of California
Fair Political Practices Commission
P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814
Technical Assistance •• Administration ••• Executive/Legal •• Enforcement •• Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

May 18, 1982

Ruth B. Galanter
Ruth B. Galanter & Associates
P.O. Box 66494
Los Angeles, CA 90066

Re: Advice Letter
No. 82-079

Dear Ms. Galanter:

Thank you for your request for advice concerning Government Code Sections 87401 and 87402.[1] You have asked whether, as a former South Coast Regional Coastal Commissioner, you can represent an applicant for a coastal development permit for a site for which a prior permit was approved "in concept only" when you were a member of the Regional Commission.

The facts, as I understand them from your letter and from our telephone conversation of May 17, 1982, are as follows:

In 1979, AVCO Community Developers applied for a Coastal permit for a large tract of land in the South Coast Region. The tract was divided into "areas" for purposes of the permit. In approving the permit, the Regional Commission required that specified conditions be met for each area prior to development. Some of the areas were approved "in concept" only. Area 19, which was approved in concept only for coastal residential sites for up to 400 units, had as specific requirements that "affordable housing" be included, and that the view from the coast road be preserved. In addition, no development was to be allowed in Area 19 until a subsequent, permit application

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[1] All statutory references are to the Government Code unless otherwise noted.

for a specific proposed development was submitted and approved.

Because of its "in concept" approval, the AVCO permit was, in many respects, more like a local coastal plan more than an ordinaly coastal development permit. To this extent, the AVCO permit was unique. It was issued in this manner because of the large size of the AVCO tract. The "in concept" approval for designated areas was intended to enable AVCO either to plan to develop those areas or to sell the property to other developers. With the AVCO permit, another developer could know what type of use would be allowed in the area.

Area 19 has been sold to another developer. It is this developer who has asked you for representation before the Regional Commission. The permit application will be for 400 units of housing, 300 of them "affordable," as required by the AVCO permit. The permit applications will cover details of building design, siting, parking, layout, building height, utilities, soil studies, sewers and other items, none of which were issues during the 1979 AVCO permit application. It will also include county approval, a subdivision map, and specific provisions for protecting the view from the coast road. The Regional Commission's decision on the developer's permit will thus be made on the basis of considerations which are almost totally different (as well as much more specific) from those which formed the basis of the 1979 permit decision.

Section 87401 provides:

> No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof:
>
> (a) By making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if;

(b) The State of California is a party or has a direct and substantial interest; and

(c) If the proceeding is one in which the former state administrative official participated.

Section 87402 provides:

No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of Caliifornia) in any proceeding in which the official would be prohibited from appearing under Section 87401.

You are clearly a "former state administrative official," and a coastal permit application is equally clearly the type of proceeding covered by these sections. Section 87400. However, it is our conclusion, on the basis of the facts that you have presented, that the current permit application for development of Area 19 is not the same "proceeding" as the one in which you participated as a regional commissioner.

As a general rule, the Fair Political Practices Commission interprets the word "proceeding," in connection with the Coastal Commission, to mean a specific permit application, including all the procedural stages involved in the application. A new permit application, even if it involves the same tract of land, or some of the same issues, as a prior application, is ordinarily considered a new proceeding.

There may, however, be situations in which a new permit application would be considered part of the same proceeding as a prior application. Whenever both the same specific parcel of land and the same specific issues are involved in two permit applications, we would be inclined to advise that the two applications constitute only one proceeding. For example, if a permit application for a specific project is withdrawn because it fails to satisfy some technical requirement, and a new permit application is submitted correcting the technical defect, the two applications would be considered part of only one proceeding.

In the situation you describe with respect to Area 19, although the land parcel is the same as in the prior permit application, the issues are almost completely different. Thus, we conclude that you can represent the developer of Area 19 without violating Sections 87401 or 87402.

I understand from our telephone conversation that you are no longer seeking advice with respect to Area 1. If, however, you are asked to represent the developer of that area, you should apply the same sort of analysis that I have applied to your request on Area 19. If you have any further questions, you should, of course, feel free to contact me.

Very truly yours,

Barbara A. Milman

Barbara A. Milman
Chief
Legal Division

BAM:plh

Library References

States ⇐95.
C.J.S. States § 156.

§ 10411. Conflict of interest; retired, dismissed, separated or former state employees; time prohibition.

(a) No retired, dismissed, separated, or formerly employed person of any state agency or department employed under the state civil service or otherwise appointed to serve in state government may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency or department. The prohibition of this subdivision shall apply to a person only during the two-year period beginning on the date the person left state employment.

(b) For a period of 12 months following the date of his or her retirement, dismissal, or separation from state service, no person employed under state civil service or otherwise appointed to serve in state government may enter into a contract with any state agency, if he or she was employed by that state agency in a policymaking position in the same general subject area as the proposed contract within the 12-month period prior to his or her retirement, dismissal, or separation. The prohibition of this subdivision shall not apply to a contract requiring the person's services as an expert witness in a civil case or to a contract for the continuation of an attorney's services on a matter he or she was involved with prior to leaving state service.

(Added by Stats.1983, c. 1231, § 4, eff. Sept. 30, 1983.)

Historical Note

Derivation: Gov.C. former § 14830.29, added by Stats.1982, c. 1208, p. 4420, § 2.

Cross References

State civil service, see Government Code § 18500 et seq.

Library References

Public Contracts ⇐4.
C.J.S. Public Contracts § 5.

§ 10412. Contractor identification number

Each contractor who enters into a state contract with the state for ten thousand dollars ($10,000) or more, shall be assigned an identification number by the department. Each contractor who has been assigned a

enforcement of this title, and explaining the duties of persons and committees under this title;

(c) Provide assistance to agencies and public officials in administering the provisions of this title; and

(d) Maintain a central file of local campaign contribution and expenditure ordinances forwarded to it by local government agencies.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975. Amended by Stats.1979, c. 531, p. 1730, § 4.)

Historical and Statutory Notes

Operative effect of 1979 amendment, see Historical Note under § 81008.

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern L.R. 453.

Library References

States ⇐73.
WESTLAW Topic No. 360.
C.J.S. States §§ 130 to 140.

§ 83114. Requests for opinions or written advice

(a) Any person may request the commission to issue an opinion with respect to his duties under this title. The commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on an opinion issued to him by the commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the commission to provide advice within 21 days of the request or such later extended time.

(Added by Initiative Measure approved by the electors June 4, 1974, eff. Jan. 7, 1975. Amended by Stats.1976, c. 1080, § 1.)

Historical and Statutory Notes

The 1976 amendment added subd. (b), relating to requests for written advice.

(b) The Commission staff shall prepare a memorandum which discusses the issues and includes any staff recommendations. At least two weeks prior to the hearing on the opinion request, the staff memorandum shall be provided to the members of the Commission, the Attorney General, the Franchise Tax Board, the Secretary of State, the person requesting the opinion, and other interested persons and shall be made available to the public.

(c) Any interested person may submit memoranda, briefs, arguments or other relevant material regarding the opinion no later than 5 days prior to the scheduled hearings on the opinion request. An original and five copies of briefs or arguments shall be submitted unless the person submitting the material declares he is financially unable to supply copies.

(d) The person requesting the opinion may present oral testimony at the hearing on the opinion request. Any other interested person may, upon request, be permitted to present oral testimony.

(e) The Commission shall adopt the opinion at a public meeting. Prior to the meeting, a draft of the opinion shall be provided to the members of the Commission, the Attorney General, the Franchise Tax Board, the Secretary of State, the person requesting the opinion, and other interested persons and shall be made available to the public.

(f) The time limits in this section may be waived or extended by the Commission.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83114, Government Code.

HISTORY

1. New section filed 8-1-75; effective thirtieth day thereafter (Register 75, No. 31).
2. Repealer and new section filed 5-10-76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 20).
3. Amendment filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
4. Amendment filed 7-14-83; effective thirtieth day thereafter (Register 83, No. 29).
5. Amendment filed 6-29-84; effective thirtieth day thereafter (Register 84, No. 26).
6. Amendment filed 1-8-86; effective thirtieth day thereafter (Register 86, No. 2).

§ 18323. Hearing on Draft Opinions (83114).

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83114, Government Code.

HISTORY

1. New section filed 8-1-75; effective thirtieth day thereafter (Register 75, No. 31).
2. Repealer and new section filed 5-10-76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 20).
3. Repealer and new section filed 7-28-76; effective thirtieth day thereafter (Register 76, No. 31).
4. Repealer filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).

§ 18324. Opinions.

(a) Opinions adopted by the Commission shall be effective upon adoption and shall be published along with any dissenting or concurring opinions by Commissioners submitted within thirty days after the adoption.

(b) The time for the effective date or for the publication of an opinion may be shortened or extended by the Chairman, subject to appeal by any interested person to the Commission.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83114(a), Government Code.

HISTORY

1. New section filed 8-1-75; effective thirtieth day thereafter (Register 75, No. 31).
2. Repealer and new section filed 5-10-76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 20).
3. Repealer and new section filed 7-28-76; effective thirtieth day thereafter (Register 76, No. 31).
4. Amendment filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).

§ 18325. Time Periods for Preparing Opinions (83114).

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83114, Government Code.

HISTORY

1. New section filed 8-1-75; effective thirtieth day thereafter (Register 75, No. 31).
2. Repealer and new section filed 5-10-76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 20).
3. Repealer filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).

§ 18326. Petition for Rehearing.

(a) Within 14 days after the adoption of a formal opinion by the Commission, the person who submitted the opinion request, a Commissioner or the Executive Director may petition the Commission to grant a rehearing. The petition, if submitted by the person who submitted the opinion request, shall be in writing and shall set forth, with specificity, the reasons for the request.

(b) Whenever the Commission grants a petition for rehearing, the Commission shall suspend the opinion pending the rehearing.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83114(a), Government Code.

HISTORY

1. New section filed 3-30-76; effective thirtieth day thereafter (Register 76, No. 14).
2. Amendment filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).

§ 18327. Voting Requirements for Formal Action by the Commission.

Except as otherwise provided by regulation, the concurring votes of at least three Commissioners shall be required to authorize any formal action by the Commission.

(a) Formal action includes, but is not limited to: the adoption of opinions, regulations or resolutions; the granting of petitions for rehearing; the approval of manuals or forms; and the issuance of any decision, order or declaration pursuant to Government Code Section 83116.

(b) Formal action does not include decisions: to approve conflict of interest codes; to hear testimony; to convene, adjourn or recess a meeting; or to conduct discussions.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 83107-83117, Government Code.

HISTORY

1. New section filed 4-30-76; effective thirtieth day thereafter (Register 76, No. 18).
2. Amendment filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
3. Amendment filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
4. Amendment filed 5-18-87; operative 5-18-87 (Register 87, No. 21).

§ 18329. Formal Written Advice and Informal Assistance.

(a) The Commission will assist persons in complying with the Political Reform Act. The Commission will make every reasonable effort to provide formal written advice pursuant to Government Code Section 83114(b) or informal assistance without unnecessary delay and in sufficient time to facilitate compliance with the Act.

(b) Formal Written Advice.

(1) Formal written advice may be requested in writing pursuant to Government Code Section 83114(b) by any person whose duties under the Act are in question or by that person's authorized representative.

(2) Requests for formal written advice will not be acted upon unless the following requirements are met:

(A) The name, title or position, and mailing address of the person whose duties are in question are provided. In addition, if the request is submitted by an authorized representative, it shall contain a specific statement that such authorization has been made.

(B) All the facts material to the consideration of the question or questions presented have been provided in a clear and concise manner.

(3) The time period specified in Government Code Section 83114(b) does not commence until the requirements of subsection (2) have been satisfied.

(4) If a formal written advice request does not meet the requirements in subsection (2) the requestor shall promptly be notified of that fact in writing and shall be provided with a copy of this regulation.

(5) When a request for formal written advice is received which complies with the requirements in subsection (2) the request shall promptly be acknowledged in writing. In addition, the acknowledgement shall provide the requestor with the name of the staff person to whom the request has been assigned, the staff person's office phone number, and the date on which the period specified in Government Code Section 83114(b) expires. If the request is from an authorized representative, a copy of the foregoing acknowledgement shall also be sent to the person on whose behalf the advice is being requested. If the request is received directly from a member of an agency a copy of the request and the acknowledgement may also be sent to the agency's counsel and/or the head or clerk of the agency.

(6) With the exception of advice that a person need not disclose specific private economic interests, copies of the advice request and the formal written advice shall be public records. Summaries of the advice provided may be published from time to time in the Commission's Bulletin newsletter.

(7) Formal written advice provided pursuant to Government Code Section 83114(b) does not constitute an Opinion of the Commission issued pursuant to Government Code Section 83114(a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code Section 83114(b) is limited to the requestor and to the specific facts contained in the formal written advice.

(8) Subsection (a) notwithstanding, the Commission may decline to give formal written advice. The requestor shall be notified if the request for formal written advice is declined. Formal written advice may be declined in any of the following circumstances:

(A) The requestor is seeking advice relating to past conduct.

(B) The requestor is seeking advice about another person's duties under the Act and has not been authorized to do so by that person.

(C) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.

(D) The request does not present a question under the Political Reform Act, or is purely hypothetical.

(E) The request presents issues requiring a policy interpretation best made through a Commission Opinion under Government Code Section 83114(a) or by adoption of a regulation pursuant to Government Code Section 83112.

(F) A response rendering formal written advice would be inappropriate or otherwise not in the public interest.

(9) A request for formal written advice under Government Code Section 83114(b) and this regulation may be treated as a request for an Opinion under Government Code Section 83114(a), or as a request for informal assistance under subsection (c).

(c) Informal Assistance.

(1) Informal assistance may be requested by any person whose duties under the Act are in question or by that person's authorized representative. In addition, informal assistance may be requested by any person with a duty to advise other persons relating to their duties or actions under the Act. Informal assistance may also be requested by any agency whose members or employees are subject to the provisions of the Act.

(2) Informal assistance may be requested or rendered orally or in writing.

(3) Informal assistance rendered pursuant to this regulation does not provide the requestor with the immunity set forth in either Government Code Section 83114(a) or (b).

(4) The Commission may decline to provide informal assistance or may limit such assistance to the explanation, in general terms, of the requirements of the Act in any of the following circumstances:

(A) Assistance or advice is being sought regarding past conduct, unless the advice or assistance sought is related to possible amendment of previous reports filed by the person requesting the advice.

(B) The requestor is seeking advice anonymously.

(C) Assistance or advice is being sought regarding the duties of another person and the requestor does not appear to be authorized to make the request as the person's representative, or does not provide the identity of the person on whose behalf the assistance is being sought.

(D) The question presented is purely hypothetical.

(E) The question presented is too complex or is otherwise inappropriate for resolution by informal assistance and should be resolved by formal written advice or an Opinion.

(F) The facts presented are insufficient or too vague to render specific informal assistance or do not appear to present a question under the Act.

(G) Rendering informal assistance would be inappropriate or otherwise not in the public interest.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83114(b), Government Code.

HISTORY

1. New section filed 5-10-76 as an emergency; effective upon filing (Register 76, No. 20).
2. Certificate of Compliance filed 7-28-76 (Register 76, No. 31).
3. Repealer and new section filed 3-31-77; effective thirtieth day thereafter (Register 77, No. 14).
4. Amendment of subsections (c)-(g) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
5. Amendment of section heading filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
6. Amendment of subsection (g) filed 7-14-83; effective thirtieth day thereafter (Register 83, No. 29).
7. Repealer and new section filed 7-16-85; effective thirtieth day thereafter (Register 85, No. 29).

§ 18350. Moscone Governmental Conflict of Interest Act. Disclosure of Economic Interests by Fair Political Practices Commission and Staff.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 3700-3710, Government Code.

HISTORY

1. New Chapter 5 (Section 18350) filed 5-30-75 as an emergency; effective upon filing (Register 75, No. 22).
2. Certificate of Compliance filed 8-14-75 (Register 75, No. 33).
3. Repealer filed 9-28-76; effective thirtieth day thereafter (Register 76, No. 40).

§ 18351. Conflict of Interest Code of the Fair Political Practices Commission.

(a) The Political Reform Act, Government Code sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. section 18730, which contains the terms of a standard model Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regs. section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Fair Political Practices Commission.

Designated employees shall file statements of economic interests with the Fair Political Practices Commission who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Fair Political Practices Commission.

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

August 6, 1992

To: All Staff

From: Peter Douglas

Re: Staff Behavior Affecting Applicant's Representatives

It has been brought to my attention by way of allegations that one or more members of Commission staff may have made comments or engaged in behavior that implies an applicant "would do far better before the Commission if they were not represented by" a particular business firm or by particular individuals. I consider this an extremely serious allegation which, if true, will result in swift and appropriate disciplinary action. Because this sort of behavior is totally unacceptable and unprofessional, and because we have a longstanding policy against this and other types of behavior that is unprofessional or srespectful of anyone having business with this agency, I am confident the allegations that have been made are unfounded. If not, I will not hesitate to take immediate and strong action to ensure such behavior ceases and is punished.

We are all proud of the professionalism in our agency. Since I began working for the Coastal Commission in 1977, I have, on several occasions, heard similar allegations only to find they were without basis in fact and appeared to have been the result of unhappiness about a staff recommendation or the Commission's action. I write this as a firm reminder to all of us about what is and is not appropriate conduct in our dealings with applicants, their representatives and members of the public. Just as it is not appropriate to recommend to an applicant that they should retain a particular business firm or a particular individual, it is equally inappropriate to make any recommendation or even to imply that someone not be retained. If you have any questions or comments on this subject, please give me a call.

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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

October 16, 1991

TO: All Staff

FROM: Peter Douglas

SUBJECT: Solicitation of Membership in any Organization

I write just to remind you that it is inappropriate for any Commission staff member to be involved in their official capacity in the solicitation of memberships in any organization such as civic or environmental groups. This includes having membership materials available in the reception areas or in any area that is part of our office space other than designated information display access not open to public use. Obviously, this prohibition applies to all organizations whether they are opposed to or supportive of Coastal Act goals and objectives. If you have any questions, please let me know.

PMD/pmh

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STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governc

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

October 20, 1993

TO: Management Team

FROM: Peter Douglas Peter D.

RE: Press Contacts

This memo is to once again remind everyone about this agency's strict policies relative to staff contacts with the media. This memo is necessitated by a recent incident in which a staff member's comments to the press caused considerable concern to me and many outside our agency having an interest in a particular issue before the Commission. The comments quoted in the press were factually incorrect, raised several legal concerns and were speculative. These comments were clearly contrary to our policy governing press contacts. It is imperative that you remind your staff, especially those who are new to the agency, what our policies governing media contacts are. These policies are:

1) To the extent a staff member talks to the press, comments must be confined to the facts as the staff member knows them to be and which are a matter of public record. If the staff member does not know or is unsure about the facts, he or she should not guess.

2) Non-legal staff should not discuss legal issues, especially those issues which may be involved in pending or potential litigation or which are being reviewed by Commission legal staff. Public discussion of such issues may not only create potential legal problems for the agency, but may jeopardize the attorney-client privilege which enables us to keep staff communications about the particular issue confidential and not subject to public disclosure.

3) It is inappropriate for Commission staff to speculate or to in any other way forecast or prejudge what the Commission or any other governing body may or may not do relative to a particular matter that is or may come before it. Nor is it appropriate for staff to speculate on what a <u>final</u> staff recommendation may be at some point in the future on a particular item.

4) Until a staff recommendation has been mailed to the Commission, it is inappropriate to discuss the recommendation with the public. We do make exceptions in special cases such as settlements and lcp matters, but even then we discuss our recommendations only with the principals (e.g., representatives of local government) unless the recommendations have already become a matter of public record. The purpose of this policy is

to give commissioners the information directly before they hear about it from the press or members of the public.

5) If media inquiries relate to a matter of policy or to questions of a sensitive or highly controversial nature, the caller should be referred to Jack Liebster and/or a member of senior management.

I have discussed the incident that gave rise to the need for this memo with the staff member involved and am confident it will not reoccur. We all make mistakes and forget agency policies from time to time. Incidents such as these are rare and we can all be proud of the good judgement of our staff!

By virtue of this memo, I am asking each of you to remind your staff of our firm policies regarding contacts with the press.

PMD/pmh

2773E

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GEORGE DEUKMEJIAN, *Governor*

CALIFORNIA COASTAL COMMISSION
631 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
(415) 543-8555

March 16, 1987

TO: All Staff

FROM: Peter Douglas, Executive Director

RE: Contacts With Members of the Media

I write this memo because I understand several of you have been contacted by the press doing background work for one or more upcoming articles about the Coastal Commission. As you know, it is standing policy that no member of the staff, other than senior managers and Jack, are to discuss Commission affairs with members of the press unless the inquiry relates to matters of fact on the public record. For purposes of this policy, senior management includes the District Directors, Tom Crandall, Ralph Faust, Jim Burns and I. If you are contacted by any reporters and asked your opinion about any aspect of the Commission's affairs please remember that such inquiries must be referred to Jack or a senior manager. I would also appreciate it if you remember to let Jack know about any inquiries of this nature. Obviously, it is vital to this agency that we provide accurate and complete factual information to members of the press. Inquiries calling for conjecture or opinion must be referred on. Thanks for your cooperation!

1149E

State of California

Memorandum

To : All Coastal Commission Staff

Date : May 2, 1986

Subject: Coastal Commission Employee Principles of Conduct

From : California Coastal Commission

Peter Douglas

INTRODUCTION

At the Management Team meeting on April 23, 1986, the Management Team informally adopted the principles of conduct set forth below. These principles or values are being articulated to the entire staff so that all Commission employees can better understand what they should expect of themselves and their colleagues in our quest for excellance. During the Management Team's discussions over the past six months, it became clear we were talking about two sets of principles: One involves the personal values we bring to our lives and working relationships, while the other principle is concerned with those values we adhere to in our capacities as public employees. The former values were described in my memo "Some Thoughts On Values", dated February 20, 1986, which has been distributed to all staff.

These employee principles of conduct are guidelines for your consideration. Obviously, they are not binding or mandatory. They do, however, reflect a consensus of shared values among the managers of this agency and can be viewed as what we expect of ourselves and other representatives of this agency. I would welcome any additional thoughts or suggestions you may have about these principles.

PRINCIPLES/VALUES

1. Each employee should maintain a strong set of personal values that he/she brings to his/her job that reflect the highest principles of integrity, professionalism, fairness, openness, dedication, and conscientiousness. Obviously, we each have somewhat different values and styles of personal conduct in the way we perform our jobs. However, it is important to recognize the significance of a healthy and positive set of personal values. We as an agency or as managers, cannot require or prescribe a certain set of personal values. We can only encourage and be supportive of the development of strong personal values in ourselves which will then be reflected in

the way we relate to others with whom we work, live and play. Based on our discussions, we agreed that although such values are personal to each of us, there is some worth in sharing the with each other in a mutually supportive, non-threatening way.

As we think about what this means in our personal and professional lives, we should remind ourselves of the elements so important for a healthy, productive and stable personality: Self-esteem, creativity, sense of purpose, accountability, responsibility, adaptability, wisdom, communications, integrity, and faith - whether in ourselves, in others or both.

2. Each employee should conduct himself/herself in a professional, courteous and forthright manner when dealing with colleagues, the public and others with whom we come in contact through our work. There is no reason or excuse for being rude, crude or discourteous with others. We should attempt to be responsive to inquiries and to say we don't know an answer when we don't. No one expects us to know everything. In addition, no one expects you to simply ignore personal abuse by a disgruntled party. These situations should be handled politely and diplomatically.

3. We should avoid dehumanizing our work by, among other things, not hiding under the mantel of bureaucratic coldness or indifference. We must remember that we are dealing with other human beings in our daily work - people with feelings and sensitivities, expectations, emotions and their own set of values and principles. This means we should try to be flexible when we can to solve a problem and politely firm when we can't. Most people appreciate both. A positive and helpful attitude on our part is the best ambassador our program can have. A bureaucratic approach that is cold, inflexible or indifferent will only alienate and cannot serve the best interests of our program. We should take the time to explain what we are doing and why. Most people will appreciate an answer which may not be what they want to hear but at least is forthright and understandable. This point is especially important for us since it is easy to become frustrated, disillusioned and bitter after so many years of controversy and uncertainty affecting our jobs. But our program has faced and weathered many crises. And it will again. I often like to recall the Chinese meaning for crisis: "Opportunity riding a dangerous wind."

4. Each of us must adhere to the highest ethical standards of conduct to ensure integrity in our work. This principle applies to all aspects of our work and includes the avoidance of any potential conflicts of interest as well as ensuring the accuracy and honesty of the work we do relative to specific agency tasks.

5. We should approach our work and relationships with our fellow employees in a positive and mutually supportive way. To me, this means we should emphasize the positive achievements of our colleagues, recognizing their strengths, encouraging growth in skills and professional advancement, and commending productivity and quality job performance. This does not mean we should shy away from constructive criticism when that is warranted. Rather, we should stress a positive approach with each other, recognizing things another does right while encouraging improvement where it is needed.

6. We should make special efforts to be supportive of individual and professional growth and advancement in our personal lives as well as our jobs.

7. We should recognize and adhere to our pledge to carry out the Coastal Act and the laws of the state and nation. This means among other things, we should constantly remind ourselves of the public trust that has been placed with us as public employees charged with carrying out a most important set of public policies and goals.

8. We should take pride in our work and strive always to achieve the highest standards of work product quality, accuracy and fair analyses.

9. We should continue to be responsive in a timely manner to inquiries from members of the public about the Commission's work. Organizing one's time effectively is a challenge, especially in light of the workload demands placed on each of us. Responding to public inquiries in a timely fashion is a high priority and also reflects on the image of the agency we represent.

10. We should be sensitive to and respectful of the views and positions of others with whom we work. This includes permit applicants, local governments, other state and federal agencies and members of the public. This does not mean we have to agree, it merely means that when we disagree, we do so in a respectful manner. Obviously, there will always be those who disagree with something we are doing. We can't always expect agreement. But others have a right to know what we are doing and why. They also have a right to their opinions.

11. We should remind ourselves that each of us is responsible for all aspects of our work. We should be especially mindful of our relations with the media and the public. Ours is an agency which because of its size, authority and broad range of subject matter involvement, presents each employee with a unique opportunity to assume challenging and important assignments. The impacts of decisions made by each of us can be and unusually are far-reaching. That is one of the major reasons the Commission is an exciting place to work. However, the challenges and opportunities available to us also means

greater individual responsibilities and higher levels of visibility and accountability. Most of us welcome this challenge. It is also a major reason why we do not seek to hide behind bureaucratic indifference or rigidity - we are willing to make decisions and to take responsibility for them.

12. We should recognize the respective roles and responsibilities we as the staff perform and have vis a vis the Commission itself. This means we should recognize and remind ourselves that it is the Commissioners who must make the policy decisions relative to the application of Coastal Act policies and requirements. Our job, as professional staff, is to prepare the most accurate, comprehensive and high quality analytical work on which the Commissioners can base their decisions. It is important that we recognize our role as an independent staff and how vital that role is in carrying out the Coastal Act. Our job is not to argue with Commissioners.

    We can and should vigorously represent the staff's recommendations and the staff's understanding and analyses of Coastal Act requirements as they apply to particular facts However, once we have done that, it is not appropriate to become argumentive.

13. We should recognize and promote the requirements of law for maximum public participation in this agency's work.

14. We should recognize our obligations and responsibilities to be current in our knowledge about the application and requirements of law relative to the implementation of Coastal Act policies. This means each of us should, on an ongoing basis, take steps to become informed about court decisions, Commission actions, and management directions relative to the implementation of our duties and responsibilities under the Coastal Act.

15. Each of us should recognize and pursue a course of study and training that will promote and improve good job skills and our job performance.

16. We should avoid divisive or negative divisions among staff and remind ourselves that we are a team working together toward a common goal - protection of precious and finite coastal resources for the benefit of current and future generation . This does not mean there will not or should not be disagreements or differences of opinions among us. On the contrary, we should encourage individual initiatives and diversity in thinking of better ways to accomplish our jobs. It does mean, however, that we should recognize there is a division of labor among us. Each of us has a job to do that is somewhat different. For example, supervisors and managers have different duties and responsibilities than line-staff. But no one's job is more or less important than another's. We should respect the differences while recognizing it takes all of us working together to successfully carry out the work of this

agency. As managers we must take actions and make decisions that may not be popular with others. Union representatives for example, must similarly take actions or positions that don't sit well with management. However, both have an important role to play in our program and it is important we respect and accept those different responsibilities. Open and effective communications is critical toward this end. Also important is to remind ourselves that criticisms or differences of opinion are healthy and that we should not take them personally.

17. As we carry out our respective jobs, we should be mindful of our obligation, as professionals, to be impartial and objective. We should predicate our analysis, and conclusions on our best judgment of what the law requires or warrants given the facts and information available to us. We should be careful to avoid shaping our judgments based on who has advocated a particular conclusion or how a particular result may benefit us individually. Resisting pressures from special interest groups is critical to our credibility as an independent and professional staff. Client-capture is typical among regulatory agencies but it is not inevitable. We should remind ourselves that our most important client is the public's best interest as defined by the goals and policies in the Coastal Act. All of this is not to say we conduct our work in a vacuum or that we should not be mindful to outside pressures. On the contrary, we must listen carefully to what others say. The point is that if what others are saying makes sense, in the context of Coastal Act or other legal requirements, we should be influenced by it. The difference is that its what is being said that's most important not necessarily who is saying it.

CONCLUSION

As with any effort of this kind, what is set forth here is not etched in stone. I am sure there are principles we have omitted that should be included and some that are included which should be clarified or changed. Accordingly, we should view this effort as one that is ongoing. This memorandum is not intended as a "code of conduct" but rather as a document to stimulate further discussion and thinking by all of us. At the same time, it does represent the collective thinking of the management of this agency. Finally, I am convinced that this effort can benefit each of us as individuals and employees and can have a positive affect on how well we like and perform our jobs.

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION
631 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
(41[illegible] [illegible]43-8555
He[illegible] Impaired/TDD (415) 896-1825

Date: June 6, 1989

To: All Commission Staff (permanent and interns)

From: Peter Douglas, Executive Director

Subject: A Drug Free Workplace

In compliance with the provisions of the Drug-Free Workplace Act of 1988, I am asking each of you to carefully review the attached statement and Governor's Executive Order.

Those of you who have been with the agency for some time are aware of our long-standing policy of maintaining a drug-free working environment at the Coastal Commission.

If you know of a state employee with a drug problem, please remember the state has a contract with Occupational Health Services for counseling to help deal with any problem an employee has, including substance abuse. This program is available to our permanent employees. Employees may refer themselves and receive up to three free counselling sessions. Such referals and sessions are absolutely confidential. The number is 800-227-1060. Questions about this employee assistance program (EAP) should be directed to our personnel office, or you may contact the 800 number directly.

Although the Commission will not be involved in state testing for drug use because we do not have what is classified as "sensitive" positions", I want to reemphasize our strong position that illegal drugs will not be tolerated in the workplace. If you have any thoughts or comments on this subject, please let me know.

Attachments

0893E

DRUG-FREE WORKPLACE STATEMENT

To comply with the federal Drug-Free Workplace Act of 1988 and continue receiving federal grants and contracts, State agencies must certify that they provide drug-free workplaces and have issued drug-free workplace statements with these provisions to their employees. You are being issued this statement to meet this requirement.

It is the policy of the State of California (Refer to Title 2, Article 29, Rule 599.960 of the California Code of Regulations) that the State workplace be free from the effects of drug and alcohol abuse. This is to avoid the dangers arising from substance abuse in the workplace. These dangers include death and injury to the employee, co-workers, or the public resulting from accidents, dereliction of duty, poor judgment and carelessness. Substance abuse also results in lost productivity, reduced efficiency, and increased absenteeism by the substance abuser and interferes with the job performance of employees who do not use illegal or unauthorized substances.

This policy, which is consistent with Government Code section 19572 and Governor's Executive Order D-58-86 (attached), states that no State employee who is on duty or on standby for duty shall (1) use, possess, or be under the influence of illegal or unauthorized drugs or other illegal mind-altering substances; or (2) use or be under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively. Furthermore, no employee shall perform duties which, because of drugs taken under a legal prescription, the employee cannot perform without posing a threat to the health or safety of the employee or others.

California law also prohibits the unlawful manufacture, dispensation, possession, or illegal use of a controlled substance. That prohibition extends to all places and includes the worksite of California state employees.

Employees convicted of a violation of a criminal drug statute when the violation occurred at a State employee's worksite shall report the conviction to the State agency within five (5) days of the conviction.

In the event of the unlawful manufacture, distribution, dispensation, possession or illegal use of a controlled substance at a State worksite the State may take disciplinary action pursuant to applicable Government Code sections and/or require the satisfactory completion of a drug abuse assistance or rehabilitation program.

The State Employee Assistance Program (EAP) provides drug problem assessment and referral to appropriate counseling and rehabilitation services. The EAP is available to all State employees. Procedures exist to ensure the confidentiality of EAP records. Contact our personnel office for further information.

It is the intent of the State that each State employee abide by the terms of this drug-free workplace statement.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION
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May 8, 1989

TO: All Staff

FROM: Peter Douglas, Executive Director

RE: Calls to the Chairman

This is to remind you of our standing policy that no staff member is to recommend or otherwise advise a permit applicant or any party interested in a particular matter before the Commission to call the Chairman if they are not satisfied with the recomendation of the staff. In fact we should never recommend that members of the public call the Chairman or any Commissioner on matters pending before the Commission. People have the right to call Commissioners but they should make that decision on their own and not be encouraged or otherwise advised by the staff to do so. If you have any questions or if any part of this memo is not clear, please don't hesitate to contact me.

cc: Commissioners

State of California

Memorandum

To : Managers and Supervisors

Date : September 23, 1987

Subject: Contacts from Private Vendors for the Purpose of "Selling" to State Employee

From : Dea Lee Harrison
California Coastal Commission

The Department of Personnel Administration has recently issued a memorandum on vendor contacts with State employees, Reference Code 87-39, as follows:

> From time-to-time, the Department of Personnel Administration is asked for guidance on the State's policy on contacts from private salespersons. Such contacts may be for a variety of insurance products, financial services or programs such as smoking cessation support.
>
> It is State policy that vendors may not solicit State employees by phone or in person at an employee's work location during working hours. Employees who want to be contacted during business hours should permit such contact only on nonwork time and in locations available to the general public.
>
> The State, from time-to-time, is also formally approached by vendors and asked to sanction a product or a service and provide access to State employees. Because of concerns pertaining to work disruption, State liability, vendor favoritism, etc., the State does not provide such authorization. Products or services must be considered in view of the needs of the State, coordination with other programs, cost and collective bargaining implications, etc. Once these considerations are made, the product or services must be obtained through contract using the bidding process, as appropriate.

Your assistance in following these guidelines is appreciated.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GEORGE DEUKMEJIAN, *Governor*

CALIFORNIA COASTAL COMMISSION
631 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
543-8555

June 17, 1987

TO: Ed & Chuck
Area Managers
Steve, Susan, Dick

FROM: TAC

SUBJECT: Commission staff appearances before state and federal agencies

In conducting our work, the Commission staff sometimes has occasion to provide input in the decision-making process of state or federal agencies with related jurisdiction. One of the ways we provide such input is through written communication, such as letters relaying Commission decisions or staff comments on a particular project to other agency decision makers. A second way is through personal appearances before regulatory or planning bodies. Personal appearances are of particular concern to me, since public hearings or meetings can be somewhat unpredictable in their dynamics. A staff member can attend a hearing for the purpose merely of reading some prepared remarks, only to find him or herself the subject of sharp questioning or media attention. Consequently, it is important that such appearances be carefully planned and coordinated with appearances by others and with any written comments which may have been provided separately. Therefore, I ask each of you and the members of your staff to alert me prior to scheduling an appearance before another state or federal agency. Thanks.

STATE OF CALIFORNIA--THE RESOURCES AGENCY GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION
631 HOWARD STREET, 4TH FLOOR
SA FRANCISCO, CA 94105
(4 543-8555

DATE: March 10, 1987

TO: All Staff

FROM: Peter Douglas, Executive Director

RE: Support of Commission Decisions

During the last Commission meeting, strong concerns were expressed that one or more staff members had apparently sought to enlist the aid of another public agency (the Corps of Engineers) to overturn or block the implementation of a decision made by the Commission against a staff recommendation. Although no staff member was named, the statement was made that the name was known. It is obviously difficult for me to take steps to deal with a particular problem if I don't know all the details and especially who the responsible individual is. I do not intend to initiate an inquiry relative to this incident to determine whether or not this activity in fact occurred or who may have been involved. I do however, want to remind each of you that it is highly inappropriate for any staff member to undertake any action after the Commission makes a decision on a particular matter that is intended to undermine or circumvent the Commission's decision.

It is the role of the Commissioners to make the policy decisions and not the staff. Our job is to present the Commission our best recommendation based on the application of the law to the facts in the case. Then it is a matter of judgement to be made by a majority of the Commissioners. I am confident that you understand and appreciate this distinction and conform your professional actions to maintaining the integrity of the Commission's decisions. However, because this particular incident was brought to my attention and because it is not the first time this issue has been raised, I am once again reminding you of our policy. If any staff member takes any action contrary to this policy, such action is, in my view, subject to appropriate disciplinary action which I will not hesitate to take.

If you have any questions about this matter, please contact me.

cc: Coastal Commission

STATE OF CALIFORNIA—THE RESOURCES AGENCY

LB - Gary Timm

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
N FRANCISCO, CA 94105-2219
.CE AND TDD (415) 904-5200

July 29, 1992

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COASTAL COMMISSION
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TO: CHUCK DAMM
TAMI GROVE

FROM: TAC

SUBJECT: PROCEDURAL MEMO # 23 FINAL: Presentations at Commission Meetings

Here is the final version of this procedural memo incorporating comments received.

The purpose of these guidelines is to help the staff person presenting a staff report to the Commission prepare for a meeting and to enhance the quality of our presentations. There are certainly those times when the quality of a staff report makes little difference in the outcome of a matter being considered by the Commission. However, good presentations always enhance the credibility and professionalism of our staff and there are those occasions when they do make a difference in a vote.

This procedural memo suggests "guidelines" for staff presentations. If you have further comments, please direct them to me or Liz.

cc: Steve Scholl
Dave Loomis
Gary Timm
Teresa Henry
Deborah Lee
Susan Hansch
Liz Fuchs
Ralph Faust

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CALIFORNIA
COASTAL COMMISSION

Suggested Guidelines for staff presentations to the Commission

The principal purpose of staff presentation at Commission meetings is to allow staff to set forth the rationale for their recommendations in a way that can be easily understood by the Commission and others participating in the public hearing process and in a way which helps the Commission in decisionmaking.

- Several days before a meeting, the District Director, in consultation with involved staff, should identify who will be making which presentations. If workload and funding allow, the "lead" analyst should normally make the initial presentation on any complex or controversial matter.

- The "presentor" should organize their comments in a way that will make it clear what are the key issues or areas of dispute, which Coastal Act or LCP policies are being used as the standard of review, and why the staff is interpreting the standard of review the way they are.

- Staff verbal reports should be succinct (anything over 5 to 10 minutes begins to lose its effectiveness), objective, well organized and supported by slides or other types of exhibits when such visual aids would be of help to the Commission. Reading of staff presentations should be avoided, as should extensive duplication of material contained in the written staff report.

- When someone other than the District Director or unit manager is to give a staff report, it's the responsibility of the unit manager to assure the presentor (normally the "lead analyst") has time to prepare for the report and has organized the presentation in a manner consistent with these guidelines. The manager should also provide any assistance or support necessary to ensure an effective presentation, including listening to, and commenting on, a practice presentation.

- When preparing a presentation, the presentor should attempt to anticipate the kinds of questions one or more Commissioners may have and incorporate answers into their presentation.

- Besides the initial staff report, the presentor should have in mind a brief (i.e. 1 to 2 minutes) summary of the staff's recommendation that may be needed at the end of the public hearing. This summary should quickly, and relatively forcefully, state the rationale for our recommendation.

- If visual aids are to be used, they should be in place, or in the slide carousel, before the meeting starts--or put in place during the noon recess. Attempting to organize the presentation of visual aids while the meeting is underway is disruptive and gives the appearance of lack of organization by the staff. It is a good idea to run through the slides beforehand to make sure they are in the proper order. If a pointer is going to be used with slides, the presentor should be familiar enough with the pointer and the image to be projected so as to be able to immediately identify the parts of the image to be highlighted.

- At the end of the Commission action on the item the presentor should be prepared to quickly vacate the staff table, leaving a clear working surface behind, in order to allow the next presentor to move into position with as little disruption as possible to the flow of the meeting.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION
631 HOWARD STREET, 4TH FLOOR
FRANCISCO, CA 94105
(415) 543-8555

Date: February 21, 1990

To: Commission staff

From: Peter M. Douglas
Executive Director

Subject: Some More Thoughts on Values

Four years ago, I wrote a memo to members of the Management Team about the values and philosophy I bring to my job. The purpose of that effort was to provide a focus for subsequent discussions to enable the managers of this agency to understand the philosophical framework within which we expect Commission business to be conducted. I recently reviewed that memo and thought it would be instructive to share it with the many members of Commission staff who were not here in 1986.

The personal values we bring to our work affects our individual and collective relationships with fellow staff members and persons having business with the agency. Cooperation, morale, commitment, motivation, integrity, tolerance, productivity, effectiveness, mutual support, respect for each other as individual human beings, understanding each others' personal and professional needs, sensitivity, self-esteem, pride in our own accomplishments and of others with whom we work, quality work, and dedication to public service are many of the very real elements in our personal and working lives affected by our values. Although each of us is unique, we share many philosophical themes. I strongly believe it is important to spend time reflecting on and discussing the values and philosophies we share as an organization. Doing so will bring us closer together as a team and will certainly provide an enduring frame of reference in which decisions are made and according to which our public service can be shaped and measured. I view this effort as an integral part of the proud legacy we leave when the time comes to move on.

The following are not set forth in order of priority. Although I have personalized many of these values and philosophical precepts, they clearly also reflect what many in this organization hold dear.

- I take pride in the quality of my work as well as that of others with whom I work.

- Be honest with people - don't tell them what you think they want to hear, tell them what you really mean, and tell it like it is. I don't discount the importance of being tactful and sensitive. At the same time, I believe people want and can deal better with the truth and knowing what you really think and mean rather than having to read between the lines and speculate about what you might have meant. And don't be afraid to admit when you are wrong or made a mistake.

- Be willing to listen to others (everyone has a story).

  Be flexible and recognize there are several ways to solve a problem and that there is nearly always another side to a story. I try to be flexible when I realize that the point in contention is relatively insignificant in the greater scheme of coastal affairs. While being flexible, be firm and strong on those points and issues that are significant in terms of Coastal Act policies or coastal resources.

- Be polite, tactful and responsive to members of the public. This doesn't mean you should enjoy making yourself a target for abuse by others. It does mean, developing a pretty effective armor coating because others often feel better (especially if they don't get what they want) if they can at least throw one or two spears at you. One need not and should not be willing to take verbal abuse beyond a reasonable point. I guess it's a matter of adjusting one's threshold of tolerance upward.

- Be fair and treat people equitably just as you expect to be treated.

  Be compassionate and remember we are working with other human beings who have feelings too. Many who appear before the Commission do so for the first time and are intimidated by the process. Help people feel at ease working with us. Explain what we are doing and why, and what the next steps are. Often, people have no idea what just happened to them at a Commission meeting. Spending a little time to explain will help and be deeply appreciated.

- Try not to make promises or commitments that you have reason to believe may not be kept. I'd rather tell people they will get an answer later or that I don't know the answer than to create false impressions or expectations which if not met will surely come back to haunt me.

- I believe in cooperation and working together. The most meaningful accomplishments of our agency come through teamwork and cooperative effort with all of us working effectively together.

- Communicate clearly and be certain the other person has really heard what you said. And you need to be sure you really heard what was said to you. I know I need to try harder on this one because too often I'm clear about what's in my head and mistakenly assume the other person knows what's there too.

- Be supportive of colleagues. Sniping or running others down serves no useful purpose. I don't appreciate it and try not to tolerate it. Constructive criticism and legitimate complaints should be heard - by the right person (usually the supervisor in the case of complaints). I encourage a positive, mutually supportive attitude to our working relationships. Besides, life is too short and precious to waste any of it on negative energy.

- Be supportive of promotional opportunities for every staff member. No one is merely expendable or incapable of growth. Each of us seeks personal and professional growth - noble and essential aspirations to be encouraged irrespective of the fact it may mean leaving our agency. We should help, not hinder such growth. Encourage movement toward a positive new goal or challenge and discourage moves which merely put distance between the individual and an uncomfortable or negative situation.

- Don't be devious because sooner or later that type of behavior will come home to roost (besides, it's not the right way to be). That does not mean one shouldn't be clever and a good tactician. But there is a significant difference. Knowing where to draw the line is the challenge.

- Recognize your strengths and weaknesses. Don't sell yourself short, but have a healthy sense of limitations in terms of habits, intellectual skills and knowledge. There's a need and room to learn in each of us, but that takes time and effort. In the meantime, I try not to pretend to know what I don't know because invariably I'll get found out. Besides, I don't feel good about myself if I do it. Not knowing something does not bother me so long as I know where to go to find the answer.

- It is extremely valuable to be able to differentiate criticism directed at one as a person from criticism directed at what one has done or said. The latter I take in a constructive vein. It allows me to analyze the criticism dispassionately and to learn as I continue to grow intellectually and emotionally in my work and my life. If the criticism is of the former kind, one has to deal with it as anyone does when faced with emotional and personal attacks. I had real problems on this score before I learned to differentiate between the two. Any number of times, I have seen efforts to resolve a particular issue come to a grinding halt simply because criticism of a person's

recommendation or work was taken as a personal attack and resulted in a defensive reaction which made further rational communication virtually impossible.

- Try to be efficient and well organized. I have found that more often than not, this is not a strong suit for me. But I am working on it.

- Maintaining high ethical standards and principles of conduct is imperative. We must scrupulously avoid conflicts of interest and the appearance of questionable or unethical practices.

  Stand up for what you believe in. Strength of spirit is vital as you confront the changing winds of life. If its a matter of principle not preference, stand firm. Remember, knowing when to stand and when to walk away comes with age and wisdom. There is a difference between heroes, martyrs and wise people who are strong and effective.

- Follow through on commitments. It is important that people be able to count on one's word. Others should not have to wonder whether something that was promised will in fact be delivered or whether an agreement will be honored.

- Maintain a healthy sense of humor. I always seem to get in trouble when I take myself so seriously that I can't pause to laugh, especially, from time to time, about myself.

- I believe in accountability and being responsible for one's actions. That means setting and maintaining reasonable expectations and standards, especially for yourself. I have, on occasion, set my personal standards and expectations unrealistically high. Then when I fail to meet them I am disappointed and even disillusioned. That's when its easy to get down on myself and even others.

- I feel better about life and my place in it if I maintain a positive attitude toward and during the myriad variations in its ebb and flow. Whether my life is unfolding as I would want or not, it's the only one I've got and time is running quickly on. I look for meaning and purpose in the life I live and try to focus energy on the positive. I avoid, to the extent possible, the energy drain of the negative and pessimistic.

- Be optimistic about the future and don't be afraid to dream especially while awake. I function better when I look to the future with a positive feeling that good things will happen. Who can really say what's possible and what isn't? It doesn't mean being naive or unrealistic or stumbling through life with one's head in the clouds. It is in part a matter of attitude and allowes one, among other things, to look upon life's crises as opportunities and challenges.

- I constantly remind myself that while I can and do steer my ship of life, I will, from time to time, be blown off course by forces beyond my control. I aim high, but realize there are limits to what I can do or control. A wise old man told me long ago if I see something that needs doing or something I would change, I should do it. "You have to try and don't give up unless its on your terms. If you think you're going to be shafted, get busy and shape the shaft to your liking. Learn to be a good carpenter."

- My attitude toward and perception of every person I deal with is that they are basically good, honest and upstanding individuals who can be trusted and who will do the "right" thing. I give everyone the benefit of the doubt, often more than once. If an individual proves to be untrustworthy, unreliable or devious, I become skeptical and cautious when I have to deal with that person again.

- I try to make the best of every situation, including assignments I am not particularly fond of. If I choose to or have to do something, I do the best I can and get on with my life. Sometimes an ability to rationalize helps a lot.

- I believe it is important to have a philosophy of life - something I can believe in and have faith in. Having a philosophy about what life is or means to me and what my role or purpose in it is gives me the strength to go forward and the foundation on which to build. It also provides me with a healthy perspective. I know in the greater scheme of things I am but one tiny point of light in an endless universe. However, at the local level (the hub around which my individual relations and interests revolve), I matter a whole lot and so do you.

- Believe in yourself and what you do and feel good about it. Many of us are fortunate because we are doing a job in which we believe. That's precious and no one can take it away. As long as I am doing that and doing the best I can, I feel good about it. A rational and healthy belief in yourself can generate a positive sense of self-esteem vital to our personal wellbeing and that of society.

- Set and know your priorities. There is more to life than working for the Coastal Commission. In my world, family and friends come first. We owe it to ourselves and society to encourage the establishment of sound priorities and then to remind each other to stick with them.

- Remember the importance of mental and physical health. We have an obligation to remind each other of the need to take care of ourselves. All of us have limits. We need to take time to renew the body and spirit.

- We must remind ourselves why we do what we do and what keeps us going. Job satisfaction comes from many sources - public service, meaningful job mission and assignments, challenging issues, responsibilities, pay and promotional/growth opportunities, the way we are treated in our jobs, and benefits. For example, in our jobs, psychic rewards are important. We feel good about what we do because we are helping to protect the earth and making this a better place for our children and theirs. Different aspects of the work vary in motivational significance to each of us. I am convinced however, that what's of primary importance can't be measured by how much money we put in the bank each month. I often remind myself what it is about my work that is meaningful and most rewarding to me. It keeps things in perspective. In that regard, we must also remember the difference between the forest and the trees. We should be able to see both because each view is important from its own perspective.

So much for philosophy. I hope no one is offended by what may appear to be preaching. Writing this has forced me to think more closely on the values and philosophy which guide my life. Besides, it gives you a good idea about how I think and operate and what I expect. I encourage each of you to remind me if you see me deviating from what I've said here. Finally, I welcome any thoughts you have on the subject and especially if there is something important I overlooked.

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
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VOICE AND TDD (415) 904-5200

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August 30, 1996

TO: Coastal Commissioners, Interested Persons

FROM: Peter M. Douglas, Executive Director
Steven F. Scholl, District Director
SFS

SUBJECT: Expectations of Commission managers regarding outside activities of Coastal Program Analysts

Below are examples of past direction provided by Coastal Commission managers to Coastal Program Analysts regarding specific outside activities of individual staff members.

Case A: A staff member with active involvement in an environmental organization.

Statutory requirements and Commission policy.

State law (Government Code Section 19990) contains a broad statement regarding conflicting employment, activities, or enterprises to which state employees are subject. For instance, the statute prohibits an employee from engaging in activities that are "inconsistent, incompatible or in conflict with their duties as state employees..."

Secondly, the Coastal Commission has adopted its own statement of incompatible activities, pursuant to that statute, to which Commission employees are subject. Using Commission time or facilities to pursue outside activities would be clearly incompatible with the statute and the Commission's adopted statement of incompatible activities. Using state facilities, such as computers, for outside activities would be prohibited, even outside of working hours (such as in the evening).

The need to avoid even the appearance of incompatibility.

In addition to activities which are clearly governed by statute or the agency's adopted statement of incompatible activities, other activities of state employees

may raise concerns if they create an **appearance of incompatibility**. Appearances are significant, of course, in maintaining public trust in public institutions. Nowadays, it is as important as ever, if not more so, to maintain full public confidence in government and to assure the taxpayers that they are receiving their "money's worth."

Ways to avoid incompatibility.

The following are typical expectations regarding ways to avoid even any appearance of incompatibility between a person's outside activities and his or her role as a Coastal Program Analyst.

1. Maintain a clear work schedule at all times. If an analyst works less than full-time, or has certain hours off during regular office hours, and uses those "off-hours" to pursue personal business, then questions may be raised as to whether the analyst is on state time or personal time. Having a clearly announced schedule is important to avoid uncertainty by members of the public or others. An analyst's supervisor needs to be able to respond to any inquiries as to whether that analyst is on state time or on his/her own time, at any given time during the ordinary working day (i.e., 8:00 a.m. to 5:00 p.m., Monday-Friday).

2. Analyst's responsibility to let others know when he/she is pursuing private versus state business. Analysts involved in outside environmental groups or other land use-related activities need to disclose when they are outside the office in other government offices or in meetings whether they are there on Coastal Commission business or are pursuing their own activities on their own time. In particular, when offering testimony as a representative of environmental interest groups at non-Commission meetings or hearings, an analyst should state clearly that he or she is appearing as an individual or as a representative of an outside group, on personal time, and not as a representative of a governmental agency. This responsibility is particularly important when pursuing outside activities during normal state working hours (that is, if an analyst takes a day off from work in order to testify at a hearing).

3. Refraining from participating in Commission staff discussions regarding personal interests. An analyst who is active in outside interest groups or who is employed part-time in activities in the coastal zone must not participate in Coastal Commission business related to those groups or activities. Thus, it would be inappropriate for an analyst to review a coastal development permit application from an organization or school with which he or she was involved on outside time. It would be inappropriate for that analyst to even sit in on Commission staff discussions involving such items, as doing so would provide the analyst with information which is not readily available to others outside the agency.

Conclusion.

In sum, pursuing outside activities raises some difficult issues in relation to state employment. State employees have the right to pursue activities, join organizations, and practice free speech on their own time as long as such activities are not incompatible with their duties in their state employment. At the same time, coastal program analysts need to act (and to be perceived by the public as acting) in a fair and objective manner as a coastal program analyst. Where incompatibilities arise between activities, it is important to note that it is the analyst's responsibility and not the agency's to resolve them. For instance, if workload requirements at the Commission were to dictate that an analyst be assigned to work on a project or plan in which he or she had some personal, outside interest, then it would be the analyst's responsibility to avoid the conflict, and not the Commission's responsibility to find some other assignment for the analyst.

Case B: A staff member with an outside teaching position.

Part-time teaching employment is not inconsistent with state employment, as long as it is not incompatible with an analyst's duties at the Coastal Commission. Many Commission employees have taught occasional courses at local institutions, and this is surely a sign of the strength and knowledge of the professional staff. Such outside employment must not hinder an analyst's performance as a Coastal Program Analyst, however, must not be inconsistent with current of future assignments, or present other conflicts with state employment. If an analyst teaches at a school or college in the coastal zone, then that analyst has a personal interest in that school and would need to disclose that personal interest in any and all discussions which relate to Coastal Commission business.

Case C: A staff member who serves on a city or county planning commission.

An analyst may serve as a member of a local government planning commission as long as the following stipulations are adhered to:

1. The analyst must comply with the Coastal Commission's "Statement of Activities which are incompatible with duties as an officer or employee of the California Coastal Commission."

2. The analyst must not be assigned to planning or regulatory matters or supervise others in planning or regulatory matters which fall within the local government's jurisdiction area.

3. The analyst must do nothing to attempt to influence staff review, evaluation, and conclusions other than provide information, if he or she wishes, that is on the public record relative to planning or regulatory matters which fall within the local government's jurisdiction. The analyst must refrain from participating in Commission staff discussions regarding business or matters from the local government which the analyst serves as a Planning Commissioner, as doing so would provide the analyst with information which is not readily available to others outside the agency.

4. The analyst may take time off during the work day to participate in local government planning activities, as long as it is approved in advance and is either vacation or compensating time off. Accurate time recrods will be maintained.

5. Coastal Commission work must come first. In those unexpected cases where Coastal Commission responsibilities require the analyst's attention at the same time as Planning Commission activity, the analyst should be prepared to give first priority to the Coastal Commission.

6. The analyst must make it clear to all parties that his or her participation on the Planning Commission is done as an individual citizen and not as a representative of the Coastal Commission and that any positions taken on local government matters do not necessarily reflect the position of the Coastal Commission or its staff.