



# Bulletin

Vol. 25, No. 1

April 1999

## New Chairman Appointed

On March 15, 1999, Governor Gray Davis announced the appointment of San Francisco political law attorney Karen A. Getman as the chairman of the Fair Political Practices Commission. Getman is the first woman to head the Commission.

Chairman Getman, a Democrat, has over 10 years of experience in the practice of campaign finance and election law. Since 1996, she has been special counsel at the law firm of Rogers, Joseph, O'Donnell & Quinn. From 1989 to 1996 she was an associate of Remcho, Johansen & Purcell.

Getman earned a bachelor of arts degree from Yale University and graduated *cum laude* from Harvard Law School. She replaces former Chairman James M. Hall, who returned to his San Diego law practice.

## Message from the Chairman

In the few days since taking the helm, I have gained a much greater appreciation for the achievements of my predecessor during the 17 months he served as FPPC chair. Jim Hall has my respect and deep gratitude for handing over to me this vitally important agency, in vastly better condition than he found it.

Thanks to Jim Hall, the FPPC can focus on the issues that are important to the functioning of the FPPC and effective implementation of the Political Reform Act.

My professional life has been centered in large part in this arena for ten years. I am convinced that simplification, outreach and education are key to assure respect for and compliance with the Political Reform Act.

In the days, weeks and months ahead, I intend to enlist support inside and outside the Commission to build the FPPC's capacity to prevent unintentional violations of the Act.

Tremendous progress has been made in the past few months in the areas of education and simplification. We have in place a web site that provides a wealth of information to the regulated community, and gives us tremendous potential for public outreach. Our new fact sheets provide clear, useful information to candidates, committees and the public. Our conflict-of-interest project already is helping make those provisions of the Act less confusing. These exciting developments were the joint work product of the public, political reformers, the regulated community and the FPPC.

But I believe that we cannot stop now. This is the right time for the FPPC to take a fresh look at what we can do to make it more readily possible to comply with the disclosure and disqualification provisions of the Act, and to make use of the information that the Act requires be disclosed. We also will take a fresh look at our compliance program to make sure that our enforcement actions are fair, sure and swift.

I am excited to embark on this journey. Along with my fellow Commissioners and the entire FPPC staff, I invite your support and your ideas for this important mission.

Thank you,

A handwritten signature in cursive script that reads "Karen Getman".

Karen Getman, Chairman

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## PLEASE NOTE

### ✓ **Commission Meetings**

Regular commission meeting days will move to the first Friday of the month at 9:30 a.m. starting with the May 7, 1999, meeting.

### ✓ **Interested Persons Meeting Scheduled**

10:00 a.m., April 30, 1999  
428 J Street, 8<sup>th</sup> Floor Hearing Room  
Sacramento, CA

The Commission is soliciting suggestions about how to simplify, clarify, and if necessary, change the regulations implementing the Political Reform Act's conflict of interest prohibitions. (Title 2, California Code of Regulations section 18700, et seq.) Suggestions or comments may also be made in writing.

### ✓ **Affinity Card Opinion Request**

The Commission will hold a hearing on the California Republican Party's opinion request regarding political fundraising by means of affinity credit card programs at the May meeting. The issues include whether the program results in a contribution to the party within the meaning of the Act; if so, from whom; and, if there is a contribution, what offsets against the contribution amount the party may take.

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## Upcoming Regulations

In the coming months, regulations on the following topics are scheduled for interested persons' meetings or adoption by the Commission:

- Co-Sponsored Events and Elections
- PERS Audits
- Ethics Training
- Definition of "Materiality Standard"
- Definition of "Doing Business in the Jurisdiction"
- Definition of "Written Instrument," "Cash," and "Account"

Check our internet address ([www.fppc.ca.gov](http://www.fppc.ca.gov)) for scheduling status.



### California Fair Political Practices Commission

Karen A. Getman, Chairman  
William Deaver, Commissioner  
Kathleen Makel, Commissioner  
Carol Scott, Commissioner

#### Commission Meetings

Meetings are regularly scheduled for the first Friday of each month at 9:30 a.m. in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order, and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000. Additionally, past and future agendas are posted on the website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## Legislation Update

The legislation summarized below was signed by the Governor:

**SB 104** (Brulte) - Would exempt from the one-year “revolving door” ban an official holding an elective office of a local government agency if the appearance or communication of that official is for the purpose of influencing legislative or administrative action on behalf of the local government agency. (*Ch. 10, Stats 1999. Effective 4/15/99.*)

The legislation summarized below, if approved by the Legislature and signed by the Governor, will amend the provisions of the Political Reform Act. The Commission is sponsoring the following bills:

**SB 492** (McPherson) - Would make various minor changes to the Political Reform Act, including amendments to the definitions of “interest in real property” and “investment;” amendments to allow the availability of campaign records; amendments to allow the facsimile transmission of statements of organization; amendments to clarify the rules applicable to members of appointed boards and commissions; and amendments to require county sheriffs to file a statement of economic interests in the same manner as other elected county officials. (*This is a two-year bill.*)

**AB 974** (Papan) - Would increase certain campaign reporting thresholds, conflict of interest related thresholds and enforcement thresholds under the Political Reform Act. Additionally, the bill implements the recommendations of the State Auditor to streamline the manner that lobbyists and committees are selected for audit.

**AB 1274** (Frusetta) - Would change the amount of time allowed the civil prosecutor to review a complaint before determining whether or not to proceed with a civil action against a person suspected of violating the Political Reform Act

from two 40-day periods totaling 80 days to one period of 180 days. In addition, the proposal would provide that the statute of limitations is tolled as to the person who filed the complaint with the FPPC.

### **Other bills related to the Political Reform Act include:**

**SB 50** (Johnson) - Would create an additional campaign filing during 1999 and establish an earlier deadline for the December 31, 1999, semi-annual statement in connection with the 2000 statewide primary which has been advanced from June 6, 2000, to March 7, 2000.

**SB 384** (Alpert) - Would provide for advertising disclosure (as in AB 1377 and AB 304) and provisions relating to the circulation of ballot measures.

**SB 658** (Karnette) - Technical “clean-up” changes to the Online Disclosure Act.

**SB 762** (Sher) - Would require state and county general purpose committees to file pre-election statements when they receive contributions of \$1,000 or more during the time period specified for the pre-election statement. This bill would also expand the information required to be disclosed in a late independent expenditure report to include all of the reportable contributions received and expenditures made by that committee since it filed its last required statement.

**SB 813** (Murray) - Would require the FPPC to reconsider its determination in rejecting a proposed decision of an administrative law judge and state, in writing, the reasons for this rejection.

**SB 953** (Murray) - Relates to the filing of statements by superior court judges (similar to AB 337).

## **Legislation Update** - *Continued*

**SB 1024** (Johnson) - Requires the Secretary of State to post on its on-line disclosure system the identification number of every person, entity or committee that has filed a campaign statement.

**SB 1025** (Johnson) - Requires the Secretary of State to expand its on-line disclosure system to include a lobbyist directory.

**SB 1169** (Bowen) - Enacts massive, comprehensive campaign finance reform.

**SB 1208** (Elections Cmte.) - Technical clean-up primarily to the Elections Code.

**SB 1220** (Schiff) - Contains provisions similar to AB 69, AB 304, and AB 1377 requiring the disclosure of the top two contributors to a committee placing advertisements in support of or in opposition to ballot measures or candidates.

**SB 1223** (Burton) - Makes a technical, nonsubstantive change to the Political Reform Act.

**AB 69** (Cunneen) - Would require advertising for and against state ballot measures to include the names of the top two contributors to the committee placing the advertisement.

**AB 307** (Davis) - Would require advertising for and against ballot measures and candidates to include the names of the top two contributors to the committee placing the advertisement.

**AB 337** (Baldwin) - Would require superior court judges and candidates for superior court judge to file original campaign disclosure statements with county clerks instead of the Secretary of State.

**AB 746** (Papan) - Would require the FPPC to provide notice to a person alleged to have unintentionally violated certain campaign filing provisions of the Political Reform Act and would require the FPPC to allow that person 21 days to cure their violation before the FPPC may impose a fine.

**AB 1182** (Frusetta) - Reinstates Proposition 73 contribution limits.

**AB 1183** (Frusetta) - Would impose additional late filing penalties.

**AB 1200** (Thompson) - Prohibits the sending of a slate mailer without receiving written permission from each candidate listed.

**AB 1377** (Gallegos) - Requires the disclosure of the top two contributors to a committee placing an advertisement in support of or opposition to a ballot measure or candidate.

**AB 1414** (Papan) - Prohibits the FPPC from violating the First or Fourteenth Amendments to the U.S. Constitution.

**AB 1629** (Villaraigosa) - Strikes from the Act the provisions prohibiting public officers from expending public moneys.

**AB 1630** (Villaraigosa) - As recently amended, adds to existing law by requiring the FPPC within 5 days of a request for advice to either (1) provide oral advice or (2) direct the requestor to seek written advice. In addition, the bill provides that reliance on oral advice from the Commission constitutes evidence of good faith.

### **City Attorneys Go To FPPC School On Conflict Of Interest Law**

FPPC Legal Division attorneys brought a full spectrum presentation on conflict of interest laws to a February 25-26 League of California Cities conference in San Francisco and Los Angeles.

In cooperation with the League's City Attorneys' Department, FPPC attorneys assisted in the preparation of the course material, spoke to the general session of the seminar and participated as panel moderator.

FPPC Assistant General Counsel Luisa Menchaca noted that the seminar was an excellent opportunity for the city attorneys and the legal division attorneys to build working relationships and exchange ideas about conflicts law.

### **Enforcement Chief Leaves FPPC**

Darryl East, head of the FPPC's Enforcement Division for the past five years, transferred to the California Department of Social Services on April 1st. Senior Enforcement Counsel Mark Morodomi has been named acting division chief pending a search for a replacement from applicants inside and outside the FPPC organization.

### **Proposition 208 Court Action On Hold**

On January 5, the Ninth Circuit Court of Appeals affirmed the preliminary injunction staying enforcement of Proposition 208, and returned the matter to the U.S. District Court for a final determination of the constitutionality of all aspects of the measure in a new trial.

The proponents of Proposition 208 filed a motion for rehearing, requesting that the three-judge panel reconsider its order of a new trial. Further proceedings will be delayed until that motion is decided by the Court of Appeals.

Proposition 208, a comprehensive campaign reform initiative passed in the 1996 general election, was struck down by U.S. District Judge Lawrence K. Karlton in January 1998, following a challenge by the major political parties and a broad array of persons and organizations opposed to the changes instituted by the measure.

Both the FPPC and the official proponents defended the initiative at trial, and appealed Judge Karlton's decision to the Ninth Circuit Court of Appeals. Judges Stephen R. Reinhardt, John T. Noonan, and Michael Daly Hawkins presided over the appellate hearing, held in San Francisco on December 8, 1998.

### **FPPC Will Appeal Griset Decision**

As complaints about unidentified mail pieces suddenly mounted in early March city elections, FPPC General Counsel Steve Churchwell filed a petition with the California Supreme Court on March 9 for review of the Griset decision, a long-festering (10-year) case against a former candidate for Santa Ana city council.

The controversial decision by the Court of Appeals against the FPPC went into effect March 1. It invalidated Section 84305 of the Political Reform Act which requires sender identification on "mass mailings."

The surprise decision apparently unleashed numerous anonymous mailings, judging by the many complaint calls to the FPPC Enforcement Division and many calls from reporters.

Churchwell anticipates a decision by the Supreme Court in early May.

# Enforcement Actions

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## Money Laundering Violations

### *January 7 Meeting*

**James Mashburn and Refuse Services, Inc.** were fined \$249,500 for laundering campaign contributions. Mashburn was the president and owner of approximately 50 percent of the shares of Mashburn Waste & Recycling Services, Inc. Refuse Services, Inc. is jointly owned by Mashburn and Edward Burr. Both corporations are in the business of waste hauling and recycling for cities located in San Diego County.

Between March 1992 and June 1995, Mashburn and Refuse Services, Inc., were the true source of 133 campaign contributions made to candidates in San Diego County. Contributions were made in the names of corporate employees and/or their spouses, as well as a relative of Mashburn.

Contributions were made to San Marcos city council candidates Corky Smith, Mike Preston, Betty Evans, Darrell Gentry, Pia Harris, James Hernandez, Richard Yocum and Lee Thibadeau; Vista city council candidates Bernard Rappaport, Ed Estes, Jr., Bonnie Lee, Gloria McClellan and Dal Williams; Escondido city council candidates Elmer Cameron, Carla DeDominicis, Rick Foster, Kevin Thomas, Lori Pfeiler, Patricia Walker, Jerry Harmon and Sidney Hollins; Encinitas city council candidates Gail Hano, John Davis and Lou Aspell; Poway city council candidates Don Higginson and Mickey Cafagna; Solana Beach city council candidate Paul Tompkins; Chula Vista city council candidates Jerry Rindone, Shirley Horton and Steven Padilla; San Diego mayoral candidate Susan Golding; San Diego city council candidate Juan Vargas; San Diego board of supervisor candidates Pam Slater, Diane Jacob, Jack Doyle, Lee Thibadeau, Peter Navarro, Bill Horn, Ron Roberts, and Greg Cox; and State Assembly candidates Fred Clayton, Tim Haidinger, Alan Uke and Ronnie Delaney.

The Act prohibits making campaign contributions in the name of another person. Commonly known as “campaign money laundering,” the illegal act deprives the public of the right to know the true source of contributions.

### *March 4 Meeting*

**Harvey Hiber** was fined \$2,000 for laundering a campaign contribution to the Paul Pfingst for District Attorney campaign.

Hiber is a San Diego County municipal court judge. In September 1994, Hiber gave \$250 in cash to his court clerk and asked her to donate the money in her name to the Pfingst campaign. Hiber told the clerk to write the contribution check in her name and she did as he requested.

## Conflict of Interest Violations

### *February 4 Meeting*

**Abe E. Beltran** was fined \$16,000 for eight conflict of interest violations. Beltran is a former member of the Colton City Council and of the Redevelopment Agency for the City of Colton. Beltran was on the city council from 1966 until 1978 and again from 1992 until 1996, serving two terms as mayor.

Beltran made numerous decisions on two projects involving a local developer, Allan Steward, who was a source of income to Beltran at the time. Beltran voted to approve more than \$680,000 in city funding for the projects, which included construction of the city’s community center and of a proposed regional factory outlet mall, known as Metro Mall 2000.

### *April 1 Meeting*

**Paul Toste** was fined \$3,000 for voting on matters affecting his real property. Toste was a city councilman for the city of Kerman in Fresno County from April 1992 through April 1996. He

## Enforcement Actions

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owned several parcels of property in Kerman including residential property, commercial property, and vacant land.

During 1995, Toste participated and voted on decisions related to the development of a parcel of property located adjacent to his commercial property at 150 No. Madera Avenue in Kerman. On June 20, 1995, Toste participated and voted on a governmental decision to approve the site and elevation plan agreement for the Pony Express project. On August 1, 1995, Toste participated and voted on a governmental decision to approve a tentative parcel map for the LeBeuf property which included the development of the Pony Express project.

### Mass Mailings at Public Expense Violation

#### *April 1 Meeting*

**Bassett Unified School District**, located in La Puente, was fined \$4,000 for sending two prohibited mass mailings at public expense.

The district sent a letter directed to parents in February 1995 which was signed by, and prominently featured, school board president Toni Giaffaglione. In December 1996, a mailing entitled "Strategic Plan for 2001" included a photograph that featured three of the five elected school district board members: Toni Giaffaglione, Al Cobos and Della Rios.

The Act prohibits sending more than 200 substantially similar pieces of mail in a calendar month at public expense that feature an elected officer affiliated with the agency. An elected officer is "featured" if the mailer includes the elected officer's photograph or signature or singles out the elected officer for attention of the reader by use of the officer's signature or photograph, or the manner of display of the officer's name or office in the layout of the document, such as by headlines, captions, type size, typeface or type color.

## Disclosure Violations

#### *January 7 Meeting*

**Kathleen Brown, Friends of Kathleen Brown, and Mary Ellen Padilla**, treasurer, were fined \$24,000 for various disclosure violations.

Brown was a candidate for Governor in the 1994 primary and general elections. During the reporting period of January 1, 1993, through December 31, 1994, receipt of \$856,677 in non-monetary contributions from the Democratic State Central Committee were not disclosed. Non-monetary contributions from other sources totaling \$127,483 were also not disclosed. In addition, monetary contributions totaling \$163,175 were not itemized and late contribution reports for contributions totaling \$82,133 were not filed. Overall, contributions totaling \$1,229,468 were not disclosed.

**Joseph Lal** was fined \$4,000 for failing to file a major donor committee campaign statement and a late contribution report. Lal made a \$50,000 contribution to the Lungren for Governor campaign during the late contribution reporting period in connection with the June 2, 1998, election. Lal failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

**ARB, Inc.** was fined \$2,500 for failing to file a major donor committee campaign statement and a late contribution report. ARB, Inc. contributed \$11,000 to the Lungren for Governor campaign during the first semi-annual reporting period for 1998. ARB, Inc. failed to file a semi-annual major donor statement disclosing these contributions. Additionally, ARB failed to file a late contribution report disclosing a \$10,000 contribution made during the late contribution reporting period in connection with the June 2, 1998, election.

# Enforcement Actions

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**Marin United Taxpayers Association, Inc.** (MUTA) was fined \$2,500 for disclosure violations.

MUTA is a membership organization located in Marin County to educate members of the public about tax issues, government spending and to communicate with legislators. During February and March of 1995, MUTA made independent expenditures in opposition to Measure A, a school parcel tax, which was on the March 7, 1995, ballot in the City of San Rafael. In the fall of 1995, MUTA also made independent expenditures and contributions in opposition to a different Measure A in Marin County concerning a development project known as the "Buck Center for Research in Aging."

MUTA failed to timely file two semi-annual campaign statements for the reporting period of January 1, 1995, to December 31, 1995.

**Ace Parking Management and Terminal Auto Parks** were fined \$2,000 for failing to file a major donor committee campaign statement.

Ace Parking Management and Terminal Auto Parks, an affiliated entity, contributed \$20,000 to the Lungren for Governor campaign during the first semi-annual reporting period for 1998. Therefore, the companies were required to file a major donor committee campaign statement.

**Bally's Casino Holdings** was fined \$2,000 for failing to file a major donor committee campaign statement. Bally's Casino Holdings made \$106,000 in contributions to the Democratic State Central Committee in 1996. A semi-annual major donor statement disclosing these contributions was not filed.

**Chris E. Edgecomb** was fined \$2,000 for failing to file a major donor committee campaign statement. Edgecomb made a \$25,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period for 1998. A semi-annual major donor

statement disclosing this contribution was not filed.

**Autozone, Inc. and Autozone Inc. Committee for Better Government** was fined \$1,250 for failing to file a major donor committee campaign statement. AutoZone, Inc. and AutoZone Inc., Committee for Better Government, an affiliated entity, made contributions totaling \$10,000 to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing these contributions was not filed.

**Hagestad Investment** was fined \$1,250 for failing to file a major donor committee campaign statement. Hagestad Investment made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Panattoni Development** was fined \$1,250 for failing to file a major donor committee campaign statement. Panattoni Development made a \$10,000 contribution to the Governor Pete Wilson Committee during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Qualcomm, Inc.** was fined \$1,250 for failing to file a major donor committee campaign statement. Qualcomm, Inc. made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Richmond American Homes** was fined \$1,250 for failing to file a major donor

## Enforcement Actions

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committee campaign statement. Richmond American Homes made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Gary Rogers** was fined \$1,250 for failing to file a major donor committee campaign statement. Rogers made a \$10,000 contribution to the Governor Pete Wilson Committee during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Mel Sembler** was fined \$1,250 for failing to file a major donor committee campaign statement. Sembler made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Standard Pacific Corporation** was fined \$1,250 for failing to file a major donor committee campaign statement. Standard Pacific Corporation made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Taylor Woodrow Homes** was fined \$1,250 for failing to file a major donor committee campaign statement. Taylor Woodrow Homes made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**Avery Dennison Corporation** was fined \$500 for failing to file a major donor committee campaign statement. Avery Dennison

Corporation made a \$20,000 contribution to the Governor Pete Wilson Committee during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

**John Malcolm** was fined \$500 for failing to file a major donor committee campaign statement. Malcolm made contributions totaling \$12,500 to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing these contributions was not filed.

### *February 4 Meeting*

**Kaufman and Broad Home Corporation** (Kaufman) was fined \$5,000 for failing to timely file late contribution reports.

During the late contribution period for the November 3, 1998, election, on five separate days, Kaufman made eight late contributions totaling \$20,500. Late contribution reports were not filed until November 24, 1998.

**Central California District Council of Carpenters, Harvey H. Landry, Jr., and J. H. Lee Accountancy Corporation** were fined \$2,500 for failing to file two pre-election statements in connection with the June 7, 1994, election.

The Central California District Council of Carpenters sponsored a general purpose committee. Landry was the treasurer of the committee during a portion of the reporting period and Chul H. "Chuck" Ha, CPA, of the J. H. Lee Accountancy Corporation, was the accountant who prepared the campaign statements for the committee. During the first pre-election reporting period, the committee made expenditures totaling \$12,200 and \$10,225 in expenditures during the second pre-election reporting period.

# Enforcement Actions

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**Gary Paul** was fined \$1,400 for failing to properly itemize contributions and expenditures.

From July 10, 1994, through July 28, 1997, Paul served as a volunteer treasurer of the Democratic State Central Committee of California, a recipient committee. Based on a Franchise Tax Board audit of the committee for the reporting periods of January 1, 1993, through December 31, 1994, over \$2.2 million in expenditures was not disclosed. In addition, occupation and employer information for itemized contributors was not properly reported.

**Rockwell International** was fined \$1,250 for failing to file a major donor committee campaign statement. Rockwell International made a \$10,000 contribution to the Lungren for Governor campaign during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

## *March 4 Meeting*

**Thermo Ecotek Corporation** was fined \$5,000 for failing to file two major donor campaign statements and a late contribution report.

Thermo Ecotek Corporation contributed \$135,000 in 1997 and \$265,000 during the first six months of 1998 to Californians for Clean Air, Yes on Proposition 7. Proposition 7 was on the November 3, 1998, ballot. The semi-annual major donor statements disclosing these contributions were not filed until November 24, 1998. Additionally, a late contribution report was not timely filed.

## *April 1 Meeting*

**Californians for Health Security (CHS), Howard Owens, Vishwanath Lingappa, and Paul Milne** were fined \$21,000 for various disclosure violations.

CHS was a committee primarily formed in December of 1993 to support the qualification and passage of Proposition 186, an initiative constitutional amendment known as the Health Security Act, on the November 8, 1994, general election ballot. The committee was sponsored by the health, senior, labor and consumer industries. Owens was the treasurer of the committee; the committee was controlled by proponent Lingappa; and Milne, a seasoned political consultant, was the campaign manager.

During the period of January 1, 1993, through December 31, 1994, CHS reported total contributions received of \$3,432,417 and total expenditures made of \$3,035,825. However, the committee failed to send "notification to contributors of \$5,000 or more" letters to 57 contributors whose contributions totaled \$972,112; failed to file late contribution reports for 12 late contributions totaling \$42,600; failed to disclose occupation and employer information for individual contributors; failed to timely disclose \$26,834 in contributions on the second pre-election statement for the period ending October 22, 1994; and failed to maintain adequate records for \$37,454 in non-monetary contributions, and for contributor occupation and employer information.

**William F. Cronk** was fined \$1,250 for failing to file a major donor committee campaign statement. Cronk made a \$10,000 contribution to the Governor Pete Wilson Committee during the first semi-annual reporting period of 1998. A semi-annual major donor statement disclosing this contribution was not filed.

## **Commerce Club Judgment**

The California Commerce Club (CCC) was fined \$85,000 in an entry of judgment for disclosure violations.

CCC is a card club located in the city of Commerce that qualified as a major donor committee. CCC paid Hal Mintz in 1995. Mintz used \$95,569.20 of the money paid to him for campaign expenditures to oppose gambling ballot measures in the cities of Azusa, Hawaiian Gardens, Irwindale, Lynwood, Pomona and Ontario in 1995.

CCC did not report the expenditures on campaign statements. Although in dispute, CCC claims that it did not authorize Mintz to make political expenditures.

In 1995, Bell United to Regulate Card Clubs (Bell United) was a sponsored committee of the Commerce Club. Campaign reports filed by Bell United did not disclose that the Commerce Club was the sponsor of Bell United.

## **General Purpose Committee Workshops**

Overview of campaign disclosure provisions  
Review of Forms 450 and 420

A general purpose committee is any entity that receives \$1,000 or more in contributions during a calendar year but is not primarily formed to support or oppose a single officeholder, candidate, measure or specific candidates or measures being voted on in a single election. General purpose committees are more commonly referred to as political action committees ("PACs").

**Friday, July 23**

**Friday, October 8**

Sacramento  
Commission Hearing Room  
428 J Street, 8<sup>th</sup> Floor  
10 a.m. to 12 noon

**Reservations required for all workshops.  
Free — sign up today!  
(916) 322-5660, press 3**

## Lobbying Disclosure Workshops

New registration requirements for the 1999-2000 legislative session  
Review of Forms 615, 625, and 635  
Discussion of gift notifications

**Friday, July 16**

**Friday, October 22**

Sacramento  
Commission Hearing Room  
428 J Street, 8<sup>th</sup> Floor  
10 a.m. to 12 noon

*These workshops are not intended for lobbyists who need to attend an orientation course to complete their lobbyist registration. An orientation course has been scheduled for June 18, 1999. The orientation courses are conducted by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics. Please call (916) 324-6929 for information on orientation courses.*

**Reservations required for all workshops.  
Free — sign up today!  
(916) 322-5660, press 3**

## Lobbyist Ethics Orientation Course Scheduled

Lobbyists are required to attend an ethics orientation course as a condition of certification. Under legislation effective January 1, 1998, lobbyists who registered to lobby during the 1997-1998 Regular Session of the Legislature must complete the ethics orientation course no later than June 30, 1999. New lobbyists must complete ethics orientation within 12 months of registration. Lobbyists who fail to comply with these deadlines are prohibited from acting as a lobbyist and may be subject to criminal penalties and substantial fines.

The Assembly Legislative Ethics Committee and the Senate Ethics Committee have scheduled the course for:

**Who:** All lobbyists who have not taken the course in the past 12 months. (The last course was offered April 16, 1999.)

**When:** **June 18, 1999**  
1:30 p.m. - 3:30 p.m.  
(Sign up deadline is June 11, 1999)

**Where:** Sacramento Convention Center  
1030 15<sup>th</sup> Street, Room 203

**Cost:** \$10 per person (*Advance sign-up and payment are required.*)

### **Advance**

**Sign-up:** Return completed form by the sign-up deadline to:

Senate Committee on Legislative Ethics  
Room 238, 1020 N Street  
Sacramento, CA 95814

**Please call (916) 324-6929 for more information.**

# Clerk's Corner

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The Commission would like to express its sincere appreciation to the filing officials who forwarded the required Form 700, statements of economic interests, to the Technical Assistance Division in a timely manner. Now that the annual filing deadline for the statements of economic interests has passed, we would like to take this opportunity to address common questions associated with your duties as a filing officer for the original statements you maintain in your office. (Please note that the Commission acts as the filing officer for the original statements we maintain. The duties outlined below only pertain to the original statements required to be kept in your office.)

The filing deadline has passed for statements in which the originals are required to be maintained in my office, and some filers have not turned in their Form 700s. What action must be taken?

Since there is no provision in the Act to extend a filing deadline, you are required to notify these filers that they must submit their statements to your office. Filing officers are also required to waive and assess late filing penalties. Sample letters and additional information is contained in the Handbook for Filing Officials and Filing Officers about these procedures.

How long is my office required to keep statements of economic interests?

Original statements must be retained for seven years. Copies of statements must be maintained for four years. After statements have been kept in your files for two years, you may retain the statements on microfilm or other space-

saving method available for public inspection and reproduction.

When reviewing statements, am I required to verify that the information contained in the statement is true and correct?

Filing officers are not required to conduct investigations to verify that filers have reported all of their economic interests. However, filing officers must review statements to ensure that information disclosed is complete and notify filers if amendments are required.

A filer reported a gift over the gift limit. Must the filer be referred to an enforcement agency?

The Act and regulations provide for various exceptions to the gift limit. If the gift in question does not appear to fall into one of these exceptions, a referral should be made to an enforcement authority.

## *Workshop Hosts Wanted*

The Technical Assistance Division is in the process of setting up workshops for candidates and treasurers for the November 1999 elections. We select locations for workshops based on the number of elections in a particular region and ease of access to the location. If you are interested in hosting a workshop, please contact Emily Bowden at (916) 322-5660.

*(Filing officers who wish to have specific issues addressed in future issues may contact Dixie Howard at (916) 322-5660.)*

# Commission Meeting Summaries

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## *January 7 Meeting*

Chairman James M. Hall called the January 7, 1999, meeting of the FPPC to order at 10:02 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commissioners approved \$300,750 in enforcement fines.

The 1999 Addendum to Campaign Disclosure Manuals A - E was approved. In addition, amendments to the following regulations were adopted:

- Regulation 18234 — Interests in Trusts
- Regulation 18991 — Audits of Campaign Reports and Statements of Local Candidates and Their Controlled Committees
- Regulation 18993 — Contain in Detail
- Regulation 18996 — Scope of Audits and Investigations

The following regulations were adopted:

- Regulation 18741.1 — Permanent Ban. Participating in the Same Proceeding
- Regulation 18746.1 — Revolving Door; General Provisions
- Regulation 18746.2 — Revolving Door; Appearances and Communications

The Commissioners also authorized the supersedure of several advice letters that contain advice that is no longer in effect based on the recent adoption of Regulation 18530 — Use of Public Funds.

Appointments of former Commission Chairmen Ben Davidian and Daniel Lowenstein as the FPPC representatives to the Bi-Partisan Commission on the PRA (the McPherson

Commission) were ratified. Commissioner Porter was designated as Vice Chairman of the Commission to preside over the February 4, 1999, meeting in Chairman Hall's absence.

## *February 4 Meeting*

Vice Chairman James Porter called the February 4, 1999, meeting of the FPPC to order at 10:00 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Vice Chairman Porter, Commissioners William Deaver and Kathleen Makel were present.

The Commissioners approved \$26,150 in enforcement fines.

The appeal by the Strawberry Commission from an order issued pursuant to Government Code Section 87307 — Amendments to a Conflict of Interest Code by Agency; Failure to Act, was heard.

## *March 4 Meeting*

Chairman James Hall called the March 4, 1999, meeting of the FPPC to order at 10:02 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel and Carol Scott were present.

The Commissioners approved \$7,000 in enforcement fines.

An amendment to Regulation 18707.2 - Public Generally — Small Jurisdictions; Principal Residence was approved. Additionally, technical amendments to the following regulations were adopted:

- Regulation 18525 - Incumbent Candidates' Election Expenses and Officeholder Expenses
- Regulation 18610 - Lobbyist Accounting
- Regulation 18612 - Accounting by Lobbying Firms

# Commission Meeting Summaries

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- Regulation 18615 - Accounting by Lobbyist Employers and Persons Spending \$5,000 or More to Influence Legislative or Administrative Action
- Regulation 18703.4 — Source of Gifts
- Regulation 18730 — Provisions of Conflict of Interest Codes
- Regulation 18942.1 — Definition of “Informational Material”
- Regulation 18943 — Return, Donation, or Reimbursement of a Gift

The Commission held a pre-notice discussion of the following regulations implementing new Government Code Section 84225, which requires candidates for elected seats on the Board of Administration of the Public Employees’ Retirement System to file campaign disclosure statements:

- Regulation 18450 — CalPERS Board Members. Requirements of Government Code Section 84225
- Regulation 18451 — CalPERS Board Member Elections - Campaign Statements
- Regulation 18452 — Reporting Requirements

Staff reported on the progress of Phase II of the Conflict of Interest Regulations Improvement Project. The Commission directed staff to draft a regulation requiring the disclosure of contributors’ zip codes on campaign statements.

## *April 1 Meeting*

Chairman Karen Getman called the April 1, 1999, meeting of the FPPC to order at 10:07 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Getman, Commissioners William Deaver, Kathleen Makel and Carol Scott were present.

The Commissioners approved \$29,250 in enforcement fines.

Staff announced that an interested person’s meeting will be held on April 14, 1999, to discuss proposed Regulation 18215.3 - Payments Which Are Not Contributions; Payments for “Co-sponsored” Events.

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (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 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.”

On January 6, 1998, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California Prolife Council PAC vs. Scully*, CIV-S-96-1965 LKK/DAD.) On January 15, 1998, the Fair Political Practices Commission decided to immediately appeal the ruling to the Ninth Circuit Court of Appeals.

The Court of Appeals heard oral arguments on December 8, 1998. The Court of Appeals affirmed the preliminary injunction staying enforcement of Proposition 208, but did not act on the substantive issues regarding its constitutionality. The district court was directed to proceed to the merits of the case expeditiously, considering the constitutionality of all aspects of the campaign finance system enacted by Proposition 208, to the extent that they may be relevant to a determination of the underlying issues.

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## Campaign

**The Honorable Martin Gallegos**  
**Assembly California Legislature**  
**Dated September 17, 1998**  
**Our File Number: A-98-192**

**James R. Sutton**  
**Nielsen, Merksamer, Parrinello,**  
**Mueller & Naylor, LLP**  
**Dated September 24, 1998**  
**Our File Number: A-98-202**

**Diane M. Fishburn**  
**Olson, Hagel, Leidigh,**  
**Waters & Fishburn**  
**Dated September 30, 1998**  
**Our File Number: I-98-214**  
**and I-98-215**

Payments to be made in connection with a youth conference held in a legislator’s district fall under the amendments to the definition of contribution made in 1997 for cosponsored events. The payments do not constitute a gift or contribution to the legislator.

Payments received by a party committee under an “affinity” fundraising program are contributions. The source of the contributions may be program participants, or the company marketing the program, depending on the facts. The party committee may offset the value of the mailing list transferred to the marketer. This letter supersedes the *Faller* Advice Letter, No. I-96-032.

Officeholders who jointly control a political action committee are not required to file additional statements as long as each of the controlling officeholders discloses the jointly controlled committee on Part II of the cover page of his or her separately controlled committee’s Form 490, and the jointly controlled committee discloses the campaign committees of each of the controlling officeholders on Part II of its cover page, Form 490.

### Campaign (continued)

**The Honorable Carl Washington**  
California State Assembly  
Dated October 8, 1998  
Our File Number: A-98-221

**Chris P. Mathys**  
Fresno City Council &  
County Central Committee  
Dated October 7, 1998  
Our File Number: I-98-226

**Geoffrey L. Garfield**  
The Elected Los Angeles  
Charter Reform Commission  
Dated October 7, 1998  
Our File Number: I-98-227

**Sue Lasher**  
Santa Clarans for  
Political Integrity and Ethics  
Dated September 29, 1998  
Our File Number: I-98-233

**Lynda Burgess**  
City of Diamond Bar  
Dated November 13, 1998  
Our File Number: A-98-245

**Carl Freeman**  
Gardena Police Officers'  
Association Political  
Action Committee  
Dated November 12, 1998  
Our File Number: I-98-247

**John Shone**  
Bear Valley Mutual  
Water Company  
Dated October 30, 1998  
Our File Number: A-98-248

A legislator would like to participate in the CalTrans Adopt-A-Highway program, in which CalTrans would acknowledge his participation with a highway sign. The sign is neither a contribution nor a gift.

A councilmember may not use his council committee and campaign account for raising funds to assist him with his officeholder duties as a member of the central committee. A separate committee and a separate bank account must be established. Multiple committee filing requirements are also discussed.

General advice is given to the Elected Los Angeles Charter Reform Commission regarding the reporting and "personal use" provisions of the Act.

A local government watchdog group formed a recall committee in 1995. The recall was unsuccessful. The group may terminate its filing obligations if it is no longer engaged in the type of activity that would qualify it as a committee. It may use whatever surplus funds it has to support its original mission as a local government watchdog group. Such use is reasonably related to a legislative, political, or governmental purpose.

The Act does not provide an appeal process for local candidates who file campaign statements late and are subsequently fined by a local filing officer. Nothing prohibits a local agency from developing its own appeal process.

The Act does not prohibit a committee from distributing campaign literature supplied by a candidate. The cost to distribute the mailing is a contribution to the candidate.

The Act does not prohibit a nonprofit mutual water company from contributing to candidates even though a water district and a city own stock in the company. The *Siegel* opinion is applied. This letter does not provide advice to the city or the water district. Section 84308 is also discussed.

### Campaign (continued)

**Kathryn Donovan**  
Pillsbury, Madison & Sutro  
Dated October 22, 1998  
Our File Number: A-98-249

A nonprofit mutual benefit corporation will incur disclosure obligations if it spends more than \$1,000 on an advertising campaign that contains express advocacy in its communications.

**Dario L. Marengo**  
San Joaquin County  
Board of Supervisors  
Dated November 12, 1998  
Our File Number: I-98-254

This letter provides general guidance to an incumbent county supervisor who intends to assist other supervisorial candidates in an upcoming election.

**Kathy Larocque**  
Sonoma County  
Dated November 24, 1998  
Our File Number: I-98-262

During the Proposition 208 injunction, the inter-candidate transfer ban applies in special elections and in local jurisdictions with valid contribution limits.

**Julie Dad**  
Santa Monica Democratic Club  
Dated December 17, 1998  
Our File Number: I-98-282

A membership organization may contribute or loan money to its "campaign account." Of course, the transaction must be reported pursuant to the reporting requirements of the Act.

**Larry Zarian**  
City of Glendale  
Dated January 19, 1999  
Our File Number: A-98-317

An incumbent elected officer may be reimbursed for expenditures of his or her personal funds spent on a survey poll and precinct sheets to help the officer decide whether or not to run for office again. The criteria of Section 89511.5 are met.

**Bruce E. Cash**  
United Strategies, Inc.  
Dated January 27, 1999  
Our File Number: A-99-005

For bona fide business reasons, United Strategies, Inc. amended its contract with the Fontana Area Chamber of Commerce PAC reducing the amount owed by the PAC. The debt reduction in this case is not considered a contribution from United Strategies, Inc. to the PAC.

**Rebecca Ávila**  
Los Angeles City  
Ethics Commission  
Dated February 10, 1999  
Our File Number: I-99-006

A contributor, who makes a monetary contribution of \$100 or more through an intermediary, may not make the contribution using a money order or cashier's check under any circumstances.

**Chris P. Mathys**  
City of Fresno  
Dated March 15, 1999  
Our File Number: I-99-048

Candidates may transfer among their controlled committees, although funds raised for a candidacy must be deposited into the one account established for that election. Some transfers are restricted if there are contribution limits. A late fine may be imposed for a statement filed with the wrong filing officer.

### **Campaign** (continued)

**Christopher Armenta**  
**Social Outreach of Latino Voters**  
**Dated March 23, 1999**  
**Our File Number: I-99-057**

While the Act does not prohibit slate mailers, the costs of the mailer and the value of any prizes awarded to recipients of the mailers may constitute reportable contributions to the candidates promoted by the mailer if the mailers were sent at the behest of the candidate or with his or her cooperation.

### **Conflicts of Interest**

**Byron M. Buck**  
**California Urban**  
**Water Agencies**  
**Dated June 2, 1998**  
**Our File Number: A-98-056**

A water district director may not participate in decisions to approve the payment of warrants to the foundation for which his spouse works, since the foundation is also a source of income to him.

**Wendy Stockton**  
**City of Santa Maria**  
**Dated August 20, 1998**  
**Our File Number: I-98-138**

A mayor who owns sizeable farming interests may not participate in governmental decisions concerning groundwater rights litigation if it is reasonably foreseeable that decisions about the litigation will have a material financial effect on his farming interests.

**Clark F. Ide**  
**Orange County Water District**  
**Dated August 4, 1998**  
**Our File Number: A-98-164**

A water district director must disqualify himself from participating in annexation decisions because a source of income to him owns a substantial amount of real property in the area proposed for annexation.

**H. Peter Klein**  
**Mendocino County**  
**Dated July 31, 1998**  
**Our File Number: I-98-167**

A county supervisor must disqualify herself from decisions affecting PG&E because her spouse is an employee of PG&E.

**J. Dennis Crabb**  
**Rollston, Henderson,**  
**Rasmussen & Crabb**  
**Dated August 24, 1998**  
**Our File Number: A-98-174**

A mayor must disqualify himself from decisions regarding a new residential and commercial development that will have a reasonably foreseeable financial effect upon both the grocery store chain that employs him, and the individual store that he manages. A city councilmember must disqualify herself from decisions regarding the same development that will have a reasonably foreseeable financial effect upon the bank that employs her.

**Diane Smith**  
**City of Yucaipa**  
**Dated September 15, 1998**  
**Our File Number: A-98-180**

A planning commissioner may participate in decisions regarding a development project, even if the amateur baseball team to which her husband and her son belongs, accepts a donation from the project's developer.

### Conflicts of Interest

(continued)

**Michelle Knight**  
Adventures By The Sea  
Dated August 24, 1998  
Our File Number: I-98-183

A candidate for city council is not a public official, and therefore is not prohibited by the Political Reform Act from renegotiating/renewing a concession contract with the city.

**Robert H. Burnham**  
City of Newport Beach  
Dated October 1, 1998  
Our File Number: A-98-187

This letter discusses potential conflicts of interests of a public official who is a real estate agent practicing as an independent contractor affiliated with Coldwell Banker. The governmental decision involves the annexation of a tract of land whose development for the next eight years is controlled by a settlement agreement and a certified local coast plan.

**Ronald R. Ball**  
City of Carlsbad  
Dated September 10, 1998  
Our File Number: A-98-198

A city councilmember must disqualify herself from participating in decisions regarding the general requirements for deferred mitigation agreements with developers, and/or decisions regarding a specific deferred mitigation agreement with a development company in which she owns stock.

**Richard R. Rudnansky**  
City of Petaluma  
Dated September 15, 1998  
Our File Number A-98-199

A councilmember may participate in recommendations of an advisory body regarding a specific plan. It is also possible that she could participate in decisions on the specific plan as a councilmember, under certain circumstances.

**Bob Biddle**  
City of Huntington Beach  
Dated September 28, 1998  
Our File Number: I-98-210

A planning commissioner (and trust beneficiary) may have a conflict of interest due to an interest in real property and in lessees as sources of income. If his spouse is a public official, she may also have a conflict of interest due to her indirect or community property interest in his trust property or rights.

**Cynthia Humbert Neely**  
City of Stockton  
Dated September 23, 1998  
Our File Number: I-98-213

A mayor who becomes an investor in a bank will be required to disqualify himself from participating in decisions that will affect either the bank or other investors in the bank.

**Thomas M. Fries**  
Imperial County  
Dated October 5, 1998  
Our File Number: A-98-217

A public official may participate in decisions related to a surface mining project located 1 ½ miles from her home, unless the decision will affect the value of her home by \$10,000 or more.

### Conflicts of Interest

(continued)

**Gail Hutton**

**City of Huntington Beach**

**Dated October 20, 1998**

**Our File Number: I-98-220**

This letter analyzes conflict-of-interest issues arising from advertisers in publications formerly owned and published by a city councilmember. The “Sources of Income to Owners of Retail Business Entities” regulation is not applicable under these facts.

**Catherine L. DiCamillo**

**City of South Lake Tahoe**

**Dated October 1, 1998**

**Our File Number: A-98-222**

A city councilmember does not have a disqualifying economic interest when the attorney who represented him in the past, appears before the councilmember’s agency, if the attorney has been paid in full and the attorney charged the councilmember his usual rate.

**David Kaplan**

**Santa Monica**

**Airport Commission**

**Dated October 13, 1998**

**Our File Number: A-98-224**

An airport commissioner, serving on an airport commission that has some limited decisionmaking authority, is a public official. When the commissioner participates in the airport commission making a recommendation to city officials regarding a decision affecting the airport, the commissioner is participating in a governmental decision. The conflict-of-interest rules therefore apply to the commissioner’s participation.

**Felix Wannemacher**

**City of Chico**

**Dated October 27, 1998**

**Our File Number: I-98-225**

This letter discusses nonprofit corporations which make small business loans funded by state, local, and federal grants. It concludes that such entities can be classed as “commercial lending institutions” for purposes of Section 87103(c) and as a “financial institution” under Section 87460(c).

**Fred Galante**

**City of Palm Springs**

**Dated October 22, 1998**

**Our File Number: A-98-228**

This letter analyzes the foreseeability of the material financial effect on a plumbing business that employs a city councilmember. The councilmember must vote on matters about development and permits involving customers of the plumbing supply business. The *Thorner* foreseeability analysis is discussed.

**Melissa Whitten**

**City of Avenal**

**Dated October 1, 1998**

**Our File Number: A-98-231**

The Act does not govern whether a city can purchase property owned by a sitting city councilmember.

**John F. Walsh**

**Best Best & Krieger LLP**

**Dated October 26, 1998**

**Our File Number: A-98-234**

Charter schools organized pursuant to Education Code Section 47600 et seq. are government agencies. Board members of charter schools must comply with the conflict-of-interest provisions of the Act.

### Conflicts of Interest

(continued)

**Brian M. Libow**  
City of San Pablo  
Dated November 5, 1998  
Our File Number: A-98-238

Various governmental decisions regarding redevelopment of a shopping center would affect the shopping center as a whole. To determine if a city councilmember's real property interest would be materially affected by the decisions, the distance measured would be the distance between the official's property and the shopping center.

**Deborah Penny Bennett**  
County of San Mateo  
Dated October 29, 1998  
Our File Number: A-98-239

The executive director of a nonprofit organization has a conflict of interest in decisions to grant funds to the nonprofit organization. The public generally exception applies to decisions affecting entities competing for the same funds. The "nexus test" is discussed. Disclosure of interests prompting disqualification must be made with the same level of specificity at least equal to the disclosure listed on the official's statement of economic interests. This letter supersedes the *Hutton* Advice Letter, No. A-85-043 and the *Densmore* Advice Letter, No. A-84-247.

**Peter E. Tracy**  
Town of Mammoth Lakes  
Dated October 22, 1998  
Our File Number: A-98-243

A community development director may not consider applications submitted by a resort development company that contracts with his spouse. The "rule of legally required participation" does not apply, per the *Maloney* Opinion. The term "income" includes income that has been promised but not yet received, if a legally enforceable right to the promised income exists.

**Guy D. Petzold**  
City of Stockton  
Dated November 12, 1998  
Our File Number: A-98-251

A city councilmember may not participate in any decisions regarding a local governmental agency that is a source of income to him if it is reasonably foreseeable that the decision will have a material financial effect on the governmental agency.

**Bradley W. Sullivan**  
City of Sutter Creek  
Dated November 20, 1998  
Our File Number: A-98-252

A councilmember must refrain from making, participating in making, or influencing a decision concerning a waste haulage contract when one of the potential bidders is a source of income to him.

**Ernest Tracy**  
Department of  
Food and Agriculture  
Dated November 17, 1998  
Our File Number: I-98-253

The conflict-of-interest provisions of the Act do not prevent an official from accepting part-time employment. Rather, the Act prohibits a public official from using his or her official position to influence a governmental decision in which the official has a financial interest.

### Conflicts of Interest

(continued)

**Richard Hill**  
City of Clayton  
Dated October 30, 1998  
Our File Number: I-98-257

This letter provides general advice on economic/financial interests that may arise when public officials form a bank within their jurisdiction.

**Deborah Penny Bennett**  
County of San Mateo  
Dated November 25, 1998  
Our File Number: A-98-258

An appointed member of a health commission may not participate in a decision to give "enhancement funding" to a hospital consortium from whom he receives income. He may be able to participate in decisions to give other entities enhancement funding, but only if the public generally exception for appointed members of boards and commissions applies.

**John D. Jones**  
Board of Pharmacy  
Dated January 12, 1999  
Our File Number: A-98-260

A public official may receive payment from pharmaceutical companies for his participation on market research advisory panels. Such payments are earned income, not prohibited honoraria.

**James Sanchez**  
City of Salinas  
Dated November 12, 1998  
Our File Number: I-98-267

A city councilmember may have a disqualifying financial interest in residential real property within 500 feet of a proposed development coming before the council. The appraisal letter secured by the councilmember does not resolve the question of foreseeable financial effects.

**Porfirio Salas**  
Department of Education  
Dated November 25, 1998  
Our File Number: I-98-270

This letter provides general guidance to a state employee who intends to purchase a business that is regulated by the agency that employs him.

**John D. Jones**  
Board of Pharmacy  
Dated January 12, 1999  
Our File Number: A-98-260

A public official may receive payment from pharmaceutical companies for his participation on market research advisory panels. Such payments are earned income, not prohibited honoraria.

**Valerie Elder**  
Squaw Valley Public  
Service District  
Dated December 3, 1998  
Our File Number: A-98-275

A utility district board member may participate in a decision to purchase a private utility company that serves the board member's neighborhood if the decision does not have a material financial effect on his real property interest, or if the public generally exception applies.

**René Auguste Chouteau**  
City of Santa Rosa  
Dated December 11, 1998  
Our File Number: A-98-279

This letter discusses whether a nonprofit organization that has provided travel expenses to a public official is a source of income to the public official pursuant to Section 87103.

### Conflicts of Interest (continued)

**Kathy DeRosa**  
Committee to Elect  
**Kathy DeRosa to City Council**  
Dated January 8, 1999  
Our File Number: I-98-284

The Act does not prohibit a public official or her life partner from conducting business with the City of Cathedral City. The public official must disqualify herself from decisions that will have a reasonably foreseeable material financial effect on her business or her life partner, who is a source of income to her. Other law outside of the Act may apply.

**Jeff Bauer**  
Sierra-Plumas Joint  
Unified School District  
Dated December 23, 1998  
Our File Number: I-98-285

A public official may not participate in any decision that will have a direct or indirect material financial effect on a community property source of income.

**Linda Bozack**  
Indian Wells Valley  
Airport Board  
Dated December 4, 1998  
Our File Number: A-98-288

An airport district board member's spouse rents hangar space month-to-month at the airport. The member may vote about a lease between her spouse's lessor and the airport district if her spouse's consequent rent increase is substantially likely to be lower than the personal financial effect materiality threshold.

**Darrell W. Larsen**  
County of Sutter  
Dated December 11, 1998  
Our File Number: A-98-292

This letter involves a conflict of interest analysis regarding a general plan amendment and a rezoning decision involving a switching station and a transmission line two miles from the public official's real property interests.

**Bill Daniels**  
Sacramento County Fire  
Protection District  
Dated January 26, 1999  
Our File Number: I-98-297

This letter generally discusses that salary from a local government agency is not income, the personal effects test, and segmenting decisions.

**Donald E. Lahr**  
City of Santa Maria  
Dated January 29, 1999  
Our File Number: I-98-298

This letter discusses possible conflicts of interest for the mayor arising from a local business owned by his son that leases real property from him. The *Nord* opinion is discussed regarding sole shareholders. The eight-step process for indirectly involved business entities and sources of income as individuals is also outlined.

**Michael Bracken**  
City of Banning  
Dated January 13, 1999  
Our File Number: A-98-301

A public official employed by a regional economic development nonprofit corporation does not have an economic interest in individual dues-paying members, and no conflict of interest will arise in decisions affecting individual members.

### Conflicts of Interest

(continued)

**Jack L. White**  
City of Anaheim  
Dated January 14, 1999  
Our File Number: I-98-304

A public official has a conflict of interest in a decision to privatize a city function if the public official plans to bid on the resulting contract.

**Bill Daniels**  
Sacramento County Fire  
Protection District  
Dated January 28, 1999  
Our File Number: I-98-306

There is no conflict of interest for a public official who merely makes, participates in making, or influences a governmental decision in which another public official has a conflict of interest, and mere participation does not give rise to aiding and abetting liability.

**Maria M. Stewart**  
City of Santa Monica  
Dated January 15, 1999  
Our File Number: I-98-310

A councilmember may participate in city council discussions pertaining to his spouse's employer, provided there is no personal financial effect on the councilmember or his immediate family.

**Tom Shone**  
City of Ione  
Dated January 15, 1999  
Our File Number: A-98-313

A public official will have a conflict of interest in a decision about a lawsuit if his source of income, who is the vice president of the defendant, will be financially affected in a material and reasonably foreseeable manner.

**Kathryn J. Tobias**  
California Integrated Waste  
Management Board  
Dated January 26, 1999  
Our File Number: A-98-315

The "exceptional circumstances" rule for identifying significant segment in the public generally exception is discussed. There are no such circumstances present.

**Marguerite P. Battersby**  
City of Highland  
Dated January 26, 1999  
Our File Number: A-98-316

A local elected official who works for a state agency may participate in a city decision to contract with the state agency. The Act's definition of salary specifically excludes salary from a state or local government agency.

**James Sanchez**  
City of Salinas  
Dated January 25, 1999  
Our File Number: A-98-319

Appraisal letters submitted on behalf of two public officials consider all factors in the Commission's regulations, and the public officials may rely on those appraisals if it is otherwise reasonable to do so.

**Jonathan Smith**  
San Francisco Bay Conservation  
and Development Commission  
Dated February 23, 1999  
Our File Number: A-98-321

A commission member may make and participate in decisions involving his public employer as long as he is not compensated or otherwise paid by his public employer for his participation on the commission.

### Conflicts of Interest

(continued)

**Tom Lucier**  
**Mendocino County**  
**Board of Supervisors**  
**Dated January 29, 1999**  
**Our File Number: I-98-322**

A supervisor is a funeral director who has contracts with the county sheriff's office and the county Department of Social Services. This letter discusses whether he has a conflict of interest in discussions affecting these county agencies.

**Daniel J. McHugh**  
**City of Redlands**  
**Dated February 9, 1999**  
**Our File Number: I-98-324**

A councilmember may not make, participate in making, or attempt to influence any decision before the city council or any other governmental agency if it is reasonably foreseeable that the decision will have a material financial effect on his property. The property is located more than 3,000 feet from the project that is the subject of the decision.

**Dave Beardsley**  
**Cameron Park Community**  
**Services District**  
**Dated February 4, 1999**  
**Our File Number: I-99-003**

The Act does not prohibit public officials from holding two offices simultaneously. The requestor was referred to the Attorney General's office regarding other laws outside of the Act. This letter also discusses salary and reimbursement for expenses or per diem received from a state, local, or federal government agency.

**Vera M. I. Todorov**  
**City of Salinas**  
**Dated February 16, 1999**  
**Our File Number: A-99-015**

The mayor may have a conflict of interest in the decision to develop an intermodal transportation center that is within 300 feet from real property, which was sold by her partnership (that is now dissolved) within the previous year.

**Catherine L. DiCamillo**  
**City of South Lake Tahoe**  
**Dated March 2, 1999**  
**Our File Number: I-99-023**

This letter gives general guidance to a councilmember who is beginning employment with a business entity which is likely to be implicated in city business. The letter explains conflicts analysis in the context of his likely interests.

**Ron Perkins**  
**City of La Quinta**  
**Dated February 25, 1999**  
**Our File Number: A-99-024**

This letter addresses whether a public official who lives near property on which a cultural art center will be built has a conflict of interest. The official may rely on an appraisal if the appraisal considers the factors in Regulation 18705.2(b)(4), the underlying facts on which the appraisal is based are accurate, and the reliance is in good faith.

**Anthony Botelho**  
**San Benito County**  
**Planning Commission**  
**Dated February 25, 1999**  
**Our File Number: A-99-025**

A public official does not have an economic interest in every parcel of real property of a trust in which he has less than a 10-percent interest, only those earmarked for the public official.

**Conflicts of Interest**  
(continued)

**Kevin Jeffries**  
**Western Municipal**  
**Water District**  
**Dated March 11, 1999**  
**Our File Number: A-99-032**

The director for a water district may not participate in decisions involving the payment of bills to business entities in which he owns stock, if it is reasonably foreseeable that the decision will have a material financial effect on the business entities.

**Jeffrey B. Hare**  
**City of Morgan Hill**  
**Dated March 23, 1999**  
**Our File Number: A-99-053**

The public generally exception applies where the financial effect of a decision to amend a redevelopment plan would affect a significant segment of the public in substantially the same manner as the public officials' economic interests.

**Jeffrey G. Scott**  
**Desert Healthcare District**  
**Dated March 12, 1999**  
**Our File Number: A-99-056**

A health care district's fundraising foundation, which paid for advertising on two of his radio stations, is a disqualifying source of income to a director of the health care district.

**Statements of**  
**Economic Interests**

**Kayla J. Gillan**  
**CalPERS**  
**Dated October 7, 1998**  
**Our File Number: I-98-216**

If a mutual fund is diversified and registered with the Securities Exchange Commission, it need not be disclosed as an investment. If a retirement or deferred compensation fund is not a "business entity" under the Act, it need not be disclosed as an investment. However, if the fund participant directs and controls the ultimate investment, disclosure of the ultimate investment is required.

**René Auguste Chouteau**  
**City of Santa Rosa**  
**Dated December 23, 1998**  
**Our File Number: A-98-289**

A public official must report an interest of \$1,000 or more in a trust unless he can show that it is a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940, or is a common trust fund which is created pursuant to Section 1564 of the Financial Code.

**Karen Mathews**  
**Stanislaus County**  
**Clerk-Recorder**  
**Dated February 5, 1999**  
**Our File Number: A-99-004**

Travel expenses provided in connection with a speech given outside California regarding an issue of national public policy are not limited or prohibited. To the extent those payments fall outside of Regulation 18950.3, they must be reported.

**Statements of  
Economic Interests**  
(continued)

**Nancie Ryan**  
**East Bay Municipal**  
**Utility District**  
**Dated February 5, 1999**  
**Our File Number: A-99-027**

A newly-elected member of the Board of Directors of East Bay Municipal Utility District must disclose reportable investments held by his spouse, including those acquired prior to the marriage that are her separate property. Only investments held on the date he assumed office are reportable at this time. On future annual statements of economic interests, he must disclose reportable investments held at any time during the period covered by the statement. He is not required to determine a specific dollar value, but must indicate whether the fair market value of each investment is between \$1,000 - \$10,000, between \$10,001 - \$100,000, or over \$100,000.

**Teri Penner**  
**Merced County**  
**Election Department**  
**Dated February 25, 1999**  
**Our File Number: A-99-030**

Statements of economic interests may be kept, and made available to the public for inspection, with the county clerk or any other agency designated by the county board of supervisors.

**Gwen Leffall**  
**Fresno County**  
**Board of Supervisors**  
**Dated March 17, 1999**  
**Our File Number: A-99-049**

Members of county boards of supervisors are not required to file statements of economic interests for any other agency which has the same jurisdiction as the board of supervisors or a smaller jurisdiction wholly contained within the county.

**Mass Mail**

**Jeannie M. Mabry**  
**City of Fresno**  
**Dated October 13, 1998**  
**Our File Number: A-98-230**

As long as a city does not assist in a mass mailing, nothing in the Act prohibits an individual from funding a mass mailing relating to a community issue. This letter also discusses express advocacy issues.

**Diana Hayes**  
**San Diego Education Association**  
**Dated November 4, 1998**  
**Our File Number: I-98-242**

An association's expenditures for express advocacy on a website are reportable. The payments can be reported on the association's sponsored political action committee's statements under Regulation 18419(c)(2).

**Kristin Parisi**  
**Citizens for the**  
**Preservation of Glendora**  
**Dated November 24, 1998**  
**Our File Number: A-98-269**

General guidance is provided concerning the duties of a committee that publishes a newspaper, which endorses candidates and ballot measures.

## Mass Mail

(continued)

**Martha Clark Lofgren**  
**City of Folsom**  
**Dated February 1, 1999**  
**Our File Number: I-98-305**

A city may not include biographical information regarding a city councilmember if the newsletter is prepared or sent in cooperation, consultation, coordination, or concert with a city councilmember. In addition, biographical information may not be included in the city's newsletter if the newsletter "features" a city councilmember.

**James Lewis**  
**County of Santa Clara**  
**Dated February 17, 1999**  
**Our File Number: A-99-009**

Santa Clara County may list the names and districts of each county supervisor on the inside cover of the guide to the county's solid waste services since it qualifies for the exception for a roster listing in subdivision (b)(1) of Regulation 18901. The county must otherwise comply with Regulation 18901.

**Andrew Peterson**  
**County of Lake**  
**Dated February 23, 1999**  
**Our File Number: A-99-013**

A county may include photographs and a short biography for each member of its board of supervisors on a website. Web pages are not subject to the mass mailing restrictions of Section 89001 and Regulation 18901.

## Conflict of Interest Code

**Claire Lillie**  
**California Student**  
**Aid Commission**  
**Dated October 7, 1998**  
**Our File Number: A-98-052(b)**

The board of directors for a nonprofit corporation, determined to be a government agency under the *Siegel* Opinion, must be included in a conflict of interest code. The code reviewing body approves all codes and amendments and specifies the filing location for Form 700's.

**Brian W. Maas**  
**California Travel and**  
**Tourism Commission**  
**Dated November 17, 1998**  
**Our File Number: A-98-261**

The California Travel and Tourism Commission is a governmental agency required to adopt a conflict of interest code under Government Code Section 87300. The fact that the commission is not supported by state appropriation does not support a contrary result when the agency is authorized to use the state's police power to collect membership assessments.

**Ben Williams**  
**Governor's Office of**  
**Planning and Research**  
**Dated February 18, 1999**  
**Our File Number: A-99-020**

The office of the outgoing Governor and the office of the Governor-elect are not required to adopt a conflict of interest code and therefore, the staffs of those offices are not required to file statements of economic interests. Regulation 18751 provides that an agency is exempt from the need to develop a conflict of interest code if the agency is, or soon will be, inoperative and non-functioning. Since both of these offices are limited, by law, to a life of no more than 60 days, both qualify for an exemption under Regulation 18751.

**Conflict of Interest  
Code**

(continued)

**David M. Madway  
San Francisco  
Redevelopment Agency  
Dated February 26, 1999  
Our File Number: A-99-029**

The members of the citizen advisory committees appointed by the San Francisco Redevelopment Commission should be designated in the agency's conflict of interest code.

**Lobbying**

**Jacques M. Barber  
California Primary  
Care Association  
Dated July 22, 1998  
Our File Number: I-98-146**

This letter discusses when an employee of an association is required to register as an in-house lobbyist under Section 82039 and the "time" test of Regulation 18239(c). The letter also describes how a portion of the salary of other association employees who assist the lobbyist must be disclosed on the association's lobbyist employer reports as "other payment to influence legislative or administrative action" if the employees spend ten percent or more of their compensated time on activities related to lobbying.

**Evelyn Elsesser  
Equiva Services LLC  
Dated December 10, 1998  
Our File Number: I-98-255**

This letter contains a detailed discussion of when an individual becomes a lobbyist and when business entities become lobbying firms or lobbyist employers.

**Debi Flectcher  
Association of California  
Water Agencies  
Dated November 20, 1998  
Our File Number: G-98-272**

This letter provides the applicable law regarding the \$10 gift limit from a lobbyist or lobbying firm.

**Honoraria**

**Kurt C. Swanson  
City of Cerritos  
Dated July 29, 1998  
Our File Number: I-98-199**

Generally, honoraria may not be accepted if the payer would have to be reported as a source of income or a gift on a public official's statement of economic interests. Reimbursement for travel expenses and related lodging and subsistence is generally permitted so long as it is provided directly in connection with the event at which the public official is speaking or participating.

### Gift Limits

**Don Benninghoven**  
League of California Cities  
Dated November 12, 1998  
Our File Number: I-98-177

The League of California City's travel reimbursements to city officials for service on the league's board and committees do not fall within Regulation 18950.3's exemption for travel to make a speech within California. Under the Act, the board members are required to report reimbursements for transportation, lodging, and meals from the league as income or gifts on their statements of economic interests.

**Lawrence C. Yee**  
The State Bar of California  
Dated October 2, 1998  
Our File Number: A-98-197

Private donations for the purpose of supporting generally the ordinary operations of a public agency are not gifts. The critical issue is whether the donations confer a personal benefit on a particular public official.

**Colleen C. McAndrews**  
Bell, McAndrews & Hiltachk  
Dated October 15, 1998  
Our File Number: A-98-203

An aerial tour for state legislators is "information material" and thus not a reportable gift because the tour is designed to convey information. Aerial viewing is the only way to convey the information, and the tour will assist officials in their official duties.

**Stanley E. Remelmeyer**  
City of Redondo Beach  
Dated September 18, 1998  
Our File Number: I-98-211

This letter provides informal advice to a city regarding a goodwill trip to China partially paid for by the Chinese government. Two city officials plan to bring a guest.

**Mary Ann Courville**  
Dixon City Council  
Dated October 5, 1998  
Our File Number: I-98-236

Gifts received by the spouse of an official from the spouse's employer are not reportable gifts to the official provided that the circumstances clearly indicate that the donor intended to give the gifts to the spouse and not the official.

**Rene Auguste Chouteau**  
City of Santa Rosa  
Dated November 3, 1998  
Our File Number: A-98-246

Flowers and food brought by guests to the funeral service of the husband of a city mayor are gifts to the mayor. However, the gifts are not reportable by the mayor since these constitute everyday acts of fellowship not governed by the Act.

**John Barna**  
California High-Speed  
Rail Authority  
Dated November 9, 1998  
Our File Number: A-98-266

A nonprofit organization is planning the itinerary of and making travel arrangements for a trip to Europe for the California High-Speed Rail Authority. These services are not gifts to the individual members of the California High-Speed Rail Authority because they do not confer a personal benefit to them.

**Jamie Morris Spitzer**  
Orange County  
Dated December 4, 1998  
Our File Number: A-98-273

Gifts that are given to a public official and his spouse that are intended for the use of their child are considered gifts to the child. However, the event of a baby shower would be considered a gift and the official's pro-rata share of the gift would be subject to the disclosure, disqualification and gift limitations.

## Gift Limits

(continued)

**Russell H. Miller**  
**Santa Clara County**  
**Dated December 17, 1998**  
**Our File Number: I-98-276**

A scholarship to Stanford University from a nonprofit corporation is a gift subject to the gift limit. If the supervisor lectures in exchange for the scholarship, the payment may be a prohibited honorarium.

**Dean F. Andal**  
**Board of Equalization**  
**Dated January 7, 1999**  
**Our File Number: A-98-294**

An elected state officer who is also an appointed member of a federal advisory commission is subject to the normal gift rules when he accepts a payment in the performance of work for the federal advisory commission. The Commission may not, by express provision of the California Constitution, refuse to enforce a law based upon a belief that the law is preempted by federal law.

## Personal Use

**Russell H. Miller**  
**Santa Clara County**  
**Dated October 5, 1998**  
**Our File Number: A-98-229**

A county supervisor may not use campaign funds to attend a master's degree program in International Policy Studies at Stanford University.

## Revolving Door

**Dale E. Bonner**  
**Department of Corporations**  
**Dated December 30, 1998**  
**Our File Number: I-98-287**

An entity does not qualify as a prospective employer under Section 87407 if a public official has not discussed a particular position or interviewed with the entity. The scheduling, conduct and follow-up of an interview is one continuous process. Thus, a public official who schedules an interview is deemed to be negotiating prospective employment.

**Charles H. Bell**  
**Hearst Monument Foundation**  
**Dated December 28, 1998**  
**Our File Number: A-98-295**

This letter discusses the post-employment restrictions of the Act as applied to the former director of the Department of Parks and Recreation, who is currently representing a nonprofit foundation that has contractual relations with the Department of Parks and Recreation. The former director may communicate freely with his former department since 12 months have passed since he left the department and since the proceedings that he participated in are now completed.

**Alan Unterreiner**  
**Department of Corrections**  
**Dated January 15, 1999**  
**Our File Number: I-98-299**

If a former state employee should have been designated in the agency's conflict of interest code, he may not, for compensation, market computer programs to his former agency for one year.

### Revolving Door

(continued)

**Todd J. Eberle**  
Department of  
Information Technology  
Dated February 1, 1999  
Our File Number: A-98-318

**Robyn A. Black**  
Industrial Welfare Commission  
Dated January 15, 1999  
Our File Number: A-98-320

**Craig S.J. Johns**  
San Francisco Bay Regional  
Water Quality Control Board  
Dated February 23, 1999  
Our File Number: A-99-017

**Charles F. Grady**  
Department of General Services  
Dated March 8, 1999  
Our File Number: I-99-034

**Dorothea J. Moore**  
City of Merced  
Dated March 17, 1999  
Our File Number: I-99-051

### Miscellaneous

**Travis Pitts**  
California Building  
Standards Commission  
Dated January 26, 1999  
Our File Number: G-98-307

**William C. Vickrey**  
Judicial Council of California  
Dated January 28, 1999  
Our File Number: I-99-021

Upon leaving office, a state agency director may lobby state agencies in the executive branch that he did not represent. General advice regarding the post-employment restrictions of the Act is discussed.

The lifetime ban on “switching sides” in Section 87401 does not apply to an agency’s rulemaking process. A regulatory proceeding is not a “judicial, quasi-judicial or other proceeding.”

A former state administrative official may provide consulting services to a business since the new application is considered a new proceeding from the permit application that the official participated in while in state service, pursuant to Sections 87401 and 87402. The former state employee must nonetheless comply with Section 87406, the one-year ban.

This letter discusses post-government employment restrictions on a former employee of the Department of General Services.

The revolving door provisions of the Act do not apply to a former member of two local governmental agencies.

This letter requests advice regarding Assembly Bill 2179 which added Sections 11146 - 11146.4 to the Government Code, the mandatory ethics training program. While the Commission does not provide advice regarding those sections of the Government Code, we can provide general guidance regarding those sections of the Act cross-referenced in Sections 11146 - 11146.4.

Since courts are not “state agencies” as defined by Section 82049, Assembly Bill 2179 does not apply to courts.