BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:

Opinion requested by David R. Baty, Municipal Court Judge, San Rafael	)	No. 77-011 May 1, 1979

BY THE COMMISSION: We have been asked by Judge David Baty, a judge of the Marin County Municipal Court, whether certain business entities in which he has investments are doing business within his jurisdiction so as to make those investments disclosable on his Statement of Economic Interests filed pursuant to the Political Reform Act.

Judge Baty has investments in three New York Stock Exchange firms, an oil company, a rubber company and a pharmaceutical company. Each firm is headquartered outside of California but has manufacturing or distribution facilities in the state. The products produced by each of the three firms are sold throughout the state on a regular basis.

CONCLUSION

Judge Baty must disclose his investments in the oil company, the rubber company and the pharmaceutical company if his investment in each firm is valued at more than $1,000.

ANALYSIS

Government Code Sections 87202 and 87203[1/] require certain public officials, including judges, to disclose their investments. See Section 87200. Section 82034 defines an investment as:

> ...any financial interest in or security issued by a business entity ... if the business entity or any parent, subsidiary or otherwise related business entity ... does business or plans to do business in the jurisdiction, or has done business

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[1/] All statutory references are to the Government Code unless otherwise noted.

> within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title....[2]

Before addressing the question of whether the companies in which Judge Daly has an interest are doing business within the jurisdiction, we note that the relevant jurisdiction for a municipal court judge is the entire state. Section 82035 defines jurisdiction as.

> ...the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction....

However, the courts are not considered either local government or state agencies as those terms are defined in the Act. Sections 82041, 82049. While the jurisdiction of courts is not specifically defined by Section 82035, we believe that the geographical concept enunciated in that section should be applied to the courts.

While, for certain purposes, the "jurisdiction" of a municipal court judge may extend only to the county in which he sits, the nature of our judicial system is such that a municipal court's decision can directly affect persons or property throughout the state. For example, the venue statutes allow suits to be brought in any county in which an injury has occurred or where a contract has been entered into. Code of Civil Procedure section 395. Therefore, a person injured in an auto accident in Sacramento County could bring suit against a Los Angeles County dealer, an Alameda County mechanic and a San Mateo County owner of the car. A San Diego firm which enters into a contract with a Los Angeles firm during the course of a Sacramento meeting could bring suit in Sacramento for breach of the contract. In each of these cases the rulings of the court could benefit or harm persons and firms located throughout the state. Similarly, a Sacramento municipal court judge, in a suit brought against a Los Angeles manufacturer with a plant in Sacramento, might declare a Department of Industrial Relations regulation invalid. The benefit of that ruling would inure to the Los Angeles manufacturer and all other manufacturers throughout the state similarly situated. In essence, the court's jurisdiction spreads statewide. In contrast, the

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2/ No interest in a business entity is an "investment" unless it has a value of more than $1,000.

decisions of city or county elected officials generally can directly affect only those within the boundaries of the city or county and will not have a statewide effect.

. The jurisdictional limitation upon the definition of investment is designed to insure that disclosure of an official's private finances does not unnecessarily impinge on his right to keep his financial affairs from public view. See County of Nevada v. MacMillen, 11 Cal. 3d 662 (1974), City of Carmel-by-the-Sea v. Young, 2 Cal. 3d 259 (1970). If an entity in which an official has an investment has no business contacts with the jurisdiction over which the official's authority extends, there is little need for disclosure of the official's investment in the entity. Because of the entity's lack of contacts with the jurisdiction, the official is not likely to make any decisions in his official capacity which have the potential for benefiting or injuring the entity. However, where the entity in which the official has an investment has business contacts with the official's jurisdiction, there is a potential for conflict of interests arising and substantial justification for disclosure of the official's investment.

In this case, the corporations in which Judge Baty has an investment clearly have sufficient business contacts with the relevant jurisdiction, i.e., the state, to be deemed doing business in the jurisdiction for purposes of Section 82034. Although none of the corporations is headquartered in California, each has either distribution or manufacturing facilities in California and the products manufactured by each are sold on a regular basis throughout the state. Any of these activities engaged in by the corporations standing alone would be sufficient to create a potential for conflicts of interest on the part of an official having an investment in the corporations.[3/] Since the manufactured products are

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[3/] We are mindful of the fact that these activities may not constitute "doing business" under other statutes. See, e.g., Code of Civil Procedure Section 410.10, Buckeye Boiler Co. v. Superior Court, 71 Cal. 2d 893 (1969) (doing business as determinant of jurisdiction of the courts over persons and corporations); Revenue and Taxation Code Section 23101 (doing business for purposes of state taxation); Code of Civil Procedure Section 398, Westinghouse Electric Company v. Superior Court, 17 Cal. 3d 259 (1976) (doing business as determinant of venue in a suit by a local agency against a

sold throughout the state, there is a potential that the corporations may be plaintiffs or defendants in lawsuits heard in Marin County municipal court. A similar potential for litigation arises out of the presence in the state of manufacturing and distribution facilities. Therefore, we conclude that Judge Baty's investments are in business entities "doing business in the jurisdiction" and must be disclosed pursuant to Sections 82034 and 87203.

3/ (cont.)

corporation); Corporations Code Section 191 (doing business as determinant of whether a corporation must register with the state). However, each of these statutes is enacted for a purpose quite different than the purposes of personal financial disclosure under the Political Reform Act. Therefore, the standards in those statutes for "doing business" are not specifically relevant to Political Reform Act "doing business" questions.

Approved by the Commission on May 1, 1979. Concurring: Commissioners Houston, Lapan, McAndrews, Quinn and Remcho.

Tom K. Houston
Chairman