

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

February 16, 1984

John D. Flitner
City Attorney
6750 Commerce Boulevard
Rohnert Park, CA 94928

Re: Advice Letter No. A-84-009

Dear Mr. Flitner:

Thank you for your request for advice on behalf of Rohnert Park City Councilwoman Mary Stewart.

FACTS

Ms. Stewart is the manager of the local chamber of commerce, a position for which she is paid \$1,250 a month. The chamber works to promote the interests of its members in such areas as taxation, business regulation, zoning and land use. The chamber also has a contract with the City to promote the commercial and related interests of the City.^{1/} During a telephone conversation, Ms. Stewart stated that she performs a purely administrative function for the chamber and that she is not paid to advocate, or in any way attempt to further, the interests of the chamber's members.

^{1/} Under this agreement, the City pays the chamber the following amounts of money:

1982-83	\$25,000
1983-84	\$20,000
1984-85	\$15,000
1985-86	\$10,000
1986-87	\$ 5,000

At the time that this arrangement was entered into, Ms. Stewart was not the manager of the chamber.

QUESTIONS PRESENTED

The questions presented in your letter are as follows:

1. Do the provisions of the Political Reform Act prevent Ms. Stewart from serving as both a Councilwoman and as the manager of the chamber of commerce?

2. If Ms. Stewart can serve in both capacities, must she disqualify herself from decisions in which the chamber of commerce is interested?

DISCUSSION

The Political Reform Act does not prohibit Councilwoman Stewart from being the manager of the local chamber of commerce. However, the Act may affect her governmental decisionmaking. Government Code Section 87100^{2/} prohibits a local public official from making, participating in the making, or in any way attempting to use her official position to influence,^{3/} a governmental decision in which she knows or has reason to know she has a financial interest. She has a "financial interest" in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a "material financial effect"^{4/} on:

* * *

(c) Any source of income . . . aggregating two hundred fifty dollars (\$250) or more in value provided to . . . the public official within 12 months prior to the time when the decision is made....

(Section 87103(c).)

The chamber of commerce is a source of income to Councilwoman Stewart. She must disqualify herself from any

^{2/} Hereinafter all statutory references are to the Government Code unless otherwise indicated.

^{3/} See the enclosed copy of 2 Cal. Adm. Code Section 18700 which defines these terms.

^{4/} See the enclosed copy of 2 Cal. Adm. Code Section 18702 which defines this phrase.

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decision which will foreseeably have a material effect on the chamber of commerce as an entity. An example of a decision which might require her disqualification is one affecting the chamber's contract with the City, or one affecting land owned by the chamber.

Ms. Stewart is not required to disqualify herself from decisions concerning matters in which the chamber's members have an interest, such as taxation or business regulation.^{5/} This is because she is paid to act only as the chamber's administrator, and not as an advocate of the members' interests. If, in the future, her role changes and she is paid to act as an advocate, there may be situations in which disqualification would be required. In that case, she should contact our office for further advice. (See the enclosed copy of 2 Cal. Adm. Code Section 18702(b) (3) (B) and the Best advice letter, A-81-032.)

I hope that I have clarified this matter for you. If you have any questions, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh
Enclosures

^{5/} This assumes that the decisions in question will not materially affect the chamber.

CITY OF ROHNERT PARK
6750 COMMERCE BOULEVARD
ROHNERT PARK, SONOMA COUNTY, CALIFORNIA 94928
TELEPHONE 795-2411

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January 13, 1984

Fair Political Practices Commission
1100 K Street
Sacramento, CA 95814

The Rohnert Park City Council has asked me to solicit your opinion regarding the following matter.

The questions as I perceive them are as follows:

1. Is the office of manager of the local chamber of commerce incompatible with the office of city councilperson?
2. Does a conflict of interest arise when matters in which the local chamber of commerce is interested are discussed and acted upon by the city council?

The facts are as follows:

1. The local chamber of commerce has a contract with the City of Rohnert Park wherein the city pays the chamber money for the purpose of promoting commercial and related interests of the city. The agreement has been in force since 1973. In 1982 the agreement was amended so as to provide that the funding provided to the chamber by the city would decrease by the sum of \$5,000 per year so that by the end of fiscal year 1986-87 the chamber would receive no funds from the city. Specifically, the agreement provides that the city will pay the chamber the following amounts for the designated fiscal years:

1982-83	\$25,000.00
1983-84	\$20,000.00
1984-85	\$15,000.00
1985-86	\$10,000.00
1986-87	\$ 5,000.00

At the time the agreement was entered into, that is on December 31, 1982, the councilperson was not the manager of the chamber and insofar as the undersigned is aware the councilperson who subsequently became manager of the chamber was not seeking the office and, again, insofar as the undersigned is aware, had no intention of seeking the office.

The chamber of commerce is interested in matters of general concern to its membership such as taxation, regulation of business, insofar as the city can regulate business, some zoning and land use matters and related matters which may have broad (and occasionally special and

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limited) impact upon its members.

The councilperson receives a salary from the chamber in the approximate gross amount of \$1,250.00 per month.

I should be interested in your response to the two questions set forth above.

Very truly yours,

JOHN D. FLITNER
CITY ATTORNEY

JDF/jes
