

State of California



Fair Political Practices Commission

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

Technical Assistance
(916) 322-5662

Administration
322-5660

Executive/Legal
322-5901

Enforcement
322-6441

Statements of Economic Interest
322-6444

March 9, 1984

Lorraine Grindstaff
Patten, Faith and Sandford
635 West Foothill Boulevard
Monrovia, CA 91016-2097

Re: Advice Letter No. A-84-033

Dear Ms. Grindstaff:

Thank you for your request for advice on behalf of the Mayor the City of Monrovia, Paul A. Stuart.

FACTS

The Monrovia City Council sits as the Redevelopment Agency and Mayor Stuart, by virtue of his position as Mayor, serves as the Chairman of the Board of Directors of the Agency. A bank wishes to locate within the Redevelopment Project Area. Mayor Stuart owns 3% of the outstanding shares of the bank and sits on the bank's Board of Directors.

QUESTION PRESENTED

Can Mayor Stuart remain a member of the City Council without either resigning from the bank's Board of Directors or reducing the percentage of outstanding shares that he owns?

CONCLUSION

The conflict of interest provisions of the Political Reform Act will not require Mayor Stuart to resign from the bank's Board of Directors, nor reduce his stock ownership. However, he will be required to disqualify himself from decisions which will foreseeably have a material financial effect on the bank.

DISCUSSION

The conflict of interest provisions of the Political Reform Act will not require Mayor Stuart to resign from the bank's

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Board of Directors, nor reduce the percentage of stock that he owns. However, the Act's provisions may affect his governmental decisionmaking as Mayor and as the Chairman of the Redevelopment Agency. Government Code Section 87100^{1/} prohibits a local public official from making, participating in the making, or in any way attempting to use his official position to influence,^{2/} a governmental decision in which he knows or has reason to know that he has a financial interest. An official 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^{3/} on:

* * *

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

* * *

(d) Any business entity in which the public official is a director....

(Section 87103.)

Mayor Stuart has an investment interest in bank worth over \$1,000 and he sits on the bank's Board of Directors. He must disqualify himself from a decision if it will foreseeably have a material financial effect on the bank. If, after considering the facts of a particular decision, Mayor Stuart has difficulty in determining whether he must disqualify himself, he can contact our office for advice.

The advice contained in this letter is based solely upon the provisions of the Political Reform Act. There may be other

^{1/} Hereinafter all statutory refernces are to the Government Code, unless otherwise indicated.

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

^{3/} See the enclosed copy of 2 Cal. Adm. Code Section 18702 which explains the phrase "material financial effect."

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statutory and common law provisions which are applicable. Specifically, you should consider the possible application of Section 1090^{4/} and Health and Safety Code Section 33130.^{5/}

If I can be of any further help to you, please contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean

Janis Shank McLean
Counsel
Legal Division

JSM:plh
Enclosure

^{4/} The Attorney General's Office has jurisdiction over Section 1090.

^{5/} Health and Safety Code Section 33130 concerns conflicts of interest for Redevelopment Agency members.

Patten, Faith & Sandford

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February 13, 1984

Fair Political Practices Commission
Legal Division
1100 K Street
Sacramento, California 95814

Re: Consequence of Conflict of Interest

Dear Commissioners:

This firm represents Paul A. Stuart, Mayor of the City of Monrovia, California. Please advise us of the Commission's position as to the existence of a conflict of interest given the following situation:

The Monrovia City Council sits as the Monrovia Redevelopment Agency. Mr. Stuart, as mayor, serves as the Chairman of the Board of Directors of the Agency. A bank wishes to locate within the Redevelopment Project Area. Mr. Stuart owns 3% of the outstanding shares of the bank and is on the Board of Directors of the bank.

Can Mayor Stuart remain a member of the City Council without resigning from the Board of Directors of the bank and without reducing the percentage of outstanding shares that he owns?

Thank you for your attention to this matter.

Very truly yours,

PATTEN, FAITH & SANDFORD

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