

# 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

March 2, 1984

James Gross  
Nielsen, Hodgson, Parrinello  
& Mueller  
1225 Eighth Street, Suite 550  
Sacramento, CA 95814

Re: Advice Letter No. A-84-040

Dear Jim,

This letter is to confirm my oral advice to you on February 29, 1984, regarding Government Code Section 87103(c).<sup>1/</sup>

### FACTS

A public official made a loan of \$250 or more to an individual who promised, but failed, to repay the loan. Thirteen months after the original promise, the official is confronted with a decision which will foreseeably have a material financial effect on the borrower.

### QUESTION PRESENTED

Is the official required to disqualify himself on the decision?

### DISCUSSION

Section 87100 prohibits a public official from making, or participating in the making of, a governmental decision in which he knows or has reason to know he has a financial interest. An official has a "financial interest" in a decision within the

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<sup>1/</sup> Hereinafter all statutory references are to the Government Code.

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meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on:

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

(Section 87103(c).)

In the situation you presented, the official must disqualify himself from a decision which will foreseeably have a material affect on the borrower because \$250 or more of the debt was owed during the 12 months prior to the decision. Although the original promise to repay the loan occurred 13 months before the decision, the promise to repay the loan continues as long as a sufficient amount of the loan remains outstanding.<sup>2/</sup>

Disqualification is also required if, during the 12 months prior to the decision, the official received payments on the loan amounting to \$250 or more.

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

Very truly yours,

*Janis*

Janis Shank McLean  
Counsel  
Legal Division

JSM:plh

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<sup>2/</sup> However, if the official writes the obligation off as a bad debt for tax purposes, or if he forgives the debt, the promise to pay will end and, after 12 months pass, the borrower will no longer be a source of income.