

# 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  
(916) 322-5662 322-5660 322-5901 322-6441

April 20, 1984

Michael A. Hackard, Esq.  
Hackard & Pye  
1435 River Park Drive, Suite 405  
Sacramento, CA 95815

Re: Your Request for Advice  
Our File No. A-84-070

Dear Mr. Hackard:

This letter is sent in response to your request for advice on behalf of Sacramento County Supervisor Ted Sheedy concerning his duties and obligations under the Political Reform Act of 1974.<sup>1/</sup>

My understanding of the situation is as follows. Mr. Sheedy and his wife entered into a series of oral agreements, which were later put into writing, providing that all of Mrs. Sheedy's earnings as a real estate salesperson would be her separate property and that all of Mr. Sheedy's earnings as a travel consultant to Travel With Chris DaCosta would be his separate property.<sup>2/</sup> This agreement is based on Mr. Sheedy's desire that "he not be forced to abstain on issues of overriding public importance because of his wife's activities in real estate" and on the statement that Mrs. Sheedy could "unknowingly and unwillingly impede ... [Mr. Sheedy's] decision-making ability as a County Supervisor." You asked how this Agreement will affect Mr. Sheedy's duty to disqualify himself pursuant to the Political Reform Act.

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<sup>1/</sup> Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise noted.

<sup>2/</sup> This Agreement is reproduced in full in your request for advice.

#### ANALYSIS

Section 87100 prohibits public officials from making, participating in making, or in any way attempting to use their official positions to influence a governmental decision in which they know or have reason to know they have a financial interest.

Financial interest is defined in Section 87103 as a reasonably foreseeable material financial effect of the decision on:

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, 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 82030 defines the "income" of an official to include "a payment received ... including any community property interest in income of a spouse." By inference, "income" does not include a spouse's separate income. Accordingly, an official does not have to disqualify himself under the Political Reform Act from participating in decisions which could foreseeably affect the source of separate income to the official's spouse. Since the Agreement between Mr. and Mrs. Sheedy converts what would otherwise be community income into separate income, this analysis would apply to their situation.

However, in view of the purposes of the Act, Mr. and Mrs. Sheedy must, in good faith and with diligence, fully comply with the provisions of the Agreement. Therefore, we give this advice with the following understandings:

1. The separate income will be maintained in separate accounts. The separate funds will not be commingled with community funds nor used to pay for community expenses.
2. Community efforts will not be used to procure or enhance the separate income of either spouse.

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I trust that this letter is responsive to your concerns. If I can be of further assistance, please feel free to contact me at (916) 322-5901.

Sincerely,



Diane Maura Fishburn  
Staff Counsel  
Legal Division

DMF:plh

MICHAEL A. HACKARD  
ROBERT B. PYE

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March 19, 1984

Legal Division (Section I)  
**FAIR POLITICAL PRACTICES COMMISSION**  
1100 "K" Street  
Sacramento, California 95814

Re: Request for Conflict of Interest Opinion

Gentlemen:

The purpose of this letter is to request a written opinion concerning potential conflict of interest issues which may arise out of the independent employment of the spouse of Sacramento County Supervisor Ted Sheedy. We request your written advice as to his duty to disqualify himself from the decision-making process of the County Board of Supervisors. This request is made based on the facts as set forth below.

For ease in delineating the facts herein, an agreement between Supervisor Sheedy and his wife is reproduced in full herein:

**AGREEMENT**

**AGREEMENT**, made by JOSEPH EDWARD SHEEDY, hereinafter sometimes referred to as the HUSBAND, and SANDRA KAY SHEEDY, hereinafter sometimes referred to as the WIFE.

**RECITALS**

- A. JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY were married in Colusa, California, on February 14, 1970, and ever since have been, and now are, HUSBAND and WIFE, respectively;
- B. JOSEPH EDWARD SHEEDY has been employed and elected as a County Supervisor in Sacramento County, California since January 4, 1971;
- C. SANDRA KAY SHEEDY has been employed as executive secretary for the Communications Workers, Psych Tech Local since May, 1977;
- D. All amounts earned by JOSEPH EDWARD SHEEDY as a County Supervisor and SANDRA KAY SHEEDY as an executive secretary since their employment thereon have been community property and will be community property in the future;
- E. On December 11, 1981, SANDRA KAY SHEEDY was duly issued Department of Real Estate license number 00829058 which gave her the right to be a real estate saleswoman;
- F. On or about October, 1982, and prior to the time that SANDRA KAY SHEEDY placed her license with a California real estate broker, the parties orally agreed and declared to each other that any commissions earned by SANDRA KAY SHEEDY would become her separate property. Since October, 1982, SANDRA KAY SHEEDY has not been paid a commission;
- G. On or about January, 1984, JOSEPH EDWARD SHEEDY, was hired by Travel With Chris DaCosta as a travel consultant;
- H. Prior to the time that JOSEPH EDWARD SHEEDY was hired by Travel With Chris DaCosta, the parties orally agreed and declared to each other that JOSEPH EDWARD SHEEDY's salary would become his separate property;
- I. JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY have operated under their oral agreements since the date of making said agreements; and

J. The oral agreements and this written agreement were entered into for the following reasons:

1. It is the desire of JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY that both JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY have financial resources separate and apart from those earned and owned by the community;
2. The existing community earnings and community assets are adequate for the current and foreseeable needs of the Sheedy family;
3. The purchase or sale of real estate necessarily rests with SANDRA KAY SHEEDY's customers, not with SANDRA KAY SHEEDY. If SANDRA KAY SHEEDY's earnings attributable to real estate sales were not separate property she could unknowingly and unwillingly impede JOSEPH EDWARD SHEEDY's decision-making ability as a County Supervisor;
4. JOSEPH EDWARD SHEEDY's duties as a County Supervisor should not be impeded as a result of his wife's earnings which are in fact separate and are accounted for as separate property. It is JOSEPH EDWARD SHEEDY's desire that he not be forced to abstain on issues of overriding public importance because of his wife's activities in real estate;
5. In order to be equitable, all of JOSEPH EDWARD SHEEDY's earnings as a travel consultant will be his separate property; and
6. Each party shall be free to spend and invest their respective separate property without impediment by the other spouse.

#### AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual benefits to be derived from this Agreement, the parties agree as follows:

1. INTENT OF THE PARTIES. It is the intent of the parties hereto that this Agreement shall memorialize the oral agreements that the parties have been operating under.
2. HUSBAND'S ASSIGNMENT OF INTEREST IN EARNINGS. JOSEPH EDWARD SHEEDY hereby confirms his oral agreement of October, 1982 that he has assigned all of his right, title and interest to any of his wife's earnings attributable to her work as a licensed real estate agent from October, 1982. This assignment includes any earnings hereafter earned by SANDRA KAY SHEEDY which are attributable to her work as a licensed real estate saleswoman.
3. WIFE'S ASSIGNMENT OF INTEREST IN EARNINGS. SANDRA KAY SHEEDY hereby confirms her oral agreement of January, 1984 that she has assigned all of her right, title and interest to any of JOSEPH EDWARD SHEEDY's earnings attributable to his work as a travel consultant from January, 1984. This assignment includes any earnings hereafter earned by JOSEPH EDWARD SHEEDY which are attributable to his work as a travel consultant.
4. SEGREGATION OF ACCOUNTS. JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY agree that earnings attributable to SANDRA KAY SHEEDY's activity as a real estate saleswoman and JOSEPH EDWARD SHEEDY's activity as a travel consultant shall be kept separate and apart from each other. In addition, said earnings shall be kept separate and apart from those earnings of JOSEPH EDWARD SHEEDY as a County Supervisor and SANDRA KAY SHEEDY as executive secretary. Accurate accounts of all sums earned that are separate property shall be kept by JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY.
5. COMMUNITY PROPERTY. JOSEPH EDWARD SHEEDY and SANDRA KAY SHEEDY agree that those earnings attributable to JOSEPH EDWARD SHEEDY's

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work as a County Supervisor and SANDRA KAY SHEEDY's work as executive secretary shall continue to be community property.

6. EFFECT ON OWNERSHIP. This Agreement shall not effect either the ownership of property now owned by the community, nor the ownership of income derived from such property.

IN WITNESS WHEREOF, the parties have executed this Agreement, in duplicate, this 19th day of March, 1984.

  
JOSEPH EDWARD SHEEDY  
  
SANDRA KAY SHEEDY

I note in passing that "(a) change of community property to separate property, or vice versa, by agreement of the spouses, need not be in writing." 7 Witkin, Summary of California Law (8th ed. 1974) Community Property, Section 73 (citations omitted). Supervisor and Mrs. Sheedy put their agreement in writing so that there would be no dispute as to its terms.

Mr. Sheedy would like to be assured that he may reasonably rely upon your opinion, so should questions arise or should you need any further information, please do not hesitate to contact me.

Very truly yours,

**HACKARD & PYE**

By

  
MICHAEL A. HACKARD

MAH:kes