

State of California



Fair Political Practices Commission

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Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

July 18, 1984

John T. Hourigan
Delano Professional Building
921 - 13th Avenue
Delano, CA 93215

Re: Advice Letter No. A-84-163

Dear Mr. Hourigan:

Thank you for your request for advice on behalf of Mr. Van Vangel.

FACTS

Mr. Vangel is the president of the Board of Directors of the North Kern-South Tulare Hospital District. Mr. Vangel's wife is employed by a doctor as a medical transcriber. Recently, the Board decided to purchase a CT Scanner, a radiography device, which will be leased to a partnership of 25 doctors under a lease/purchase agreement. The doctor employing Mr. Vangel's wife is one of the 25 partners. Mr. Vangel abstained from the decision on the purchase of the Scanner.

QUESTION PRESENTED

How will the Political Reform Act affect Mr. Vangel's future decisionmaking regarding the Scanner?

CONCLUSION

The Act will require Mr. Vangel to disqualify himself on a decision concerning the Scanner if it will have a material financial effect on the doctor employing Mr. Vangel's wife.

John T. Hourigan
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DISCUSSION

Government Code Section 87100^{1/} prohibits a public official from making, participating in the making, or in any way attempting to use his official position to influence 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 meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect,^{2/} 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.

The doctor employing Mr. Vangel's wife is a source of income to the director. (Section 82030.) Mr. Vangel must disqualify himself from any decision, including a decision concerning the Scanner, if it will have a material financial effect on the doctor. If Mr. Vangel is unable to determine whether to disqualify himself on a particular decision, he can contact our office for advice.

Very truly yours,

Janis Shank McLean

Janis Shank McLean
Counsel
Legal Division

JSM:plh
Enclosure

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

^{2/} For an explanatin of the term "material financial effect," see the enclosed copy of 2 Cal. Adm. Code Section 18702.

Law Offices of

John T. Hourigan

DALE PARHAM
ASSOCIATE

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Telephone (805) 725-3522

June 13, 1984

Robert E. Leidigh
Counsel, Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95814

Re: CONFLICT OF INTEREST LETTER OPINION

Dear Mr. Leidigh:

Van Vangel, president of the Board of Directors of the North Kern - South Tulare Hospital District, has requested an opinion from the Fair Political Practices Commission as to his participation as a director under the following circumstances:

Director Vangel has been on the Board in excess of 12 years. He married his present wife 8 years ago. She is a former registered nurse and has hourly contract employment as a medical transcriber/secretary with a general surgeon within the Hospital District area. Her time averages 12 to 20 hours per week and she earns well in excess of the \$250. She had this job when she married Mr. Vangel and he was already a director when they married.

The District does not have a hospital and has accumulated funds well in excess of \$1,000,000. The District proposes to purchase a CT Scanner, a radiography device, and to lease it to a partnership formed and made up for that purpose of some 25 doctors from the staff of the local community hospital. Most of the partners are doctors and by far the greater percentage are specialists who welcome the scanner in their practice with the local hospital. The District was formed at a time when the District had little medical and no hospital facilities available and the fortuitous opening of a large private hospital in which they have taken active interest has provided the only hospital/medical attention in North Kern-South Tulare counties. A large number of its patients are MediCal, MediCare and welfare.

The District proposes to purchase and make a lease/purchase agreement with the foregoing partnership. The contract employer of the president's wife is one of these 25 partners. The partnership was formed for the sole purpose of employing this scanner for their patients, the patients of the local hospital and the entire medical community. The doctors are all lessees and each guarantees payment of the entire group as partners. Projected earnings apparently will do little more than pay for the scanner, but scanning is now available only from traveling units which come periodically from San Francisco and/or Bakersfield. The scanner will, in all probability, resort to a substantial medical

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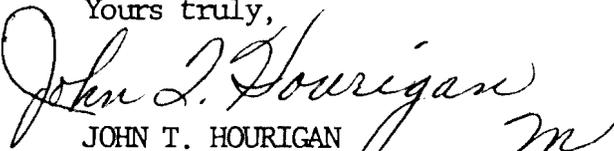
Re: Conflict of Interest Letter Opinion

cost to the Delano community. It would appear to be more of a convenience for the doctors. A doctor's financial impact on their practice is difficult to predict since it is a service that would be supplied at any rate to them at a slightly higher cost, which would be passed on to the patients. Nevertheless, there is a possibility of profit to the partners as well as loss, depending upon the use made of the scanner. The employer/doctor/owner of the scanner will apparently have little effect on this overall income. This would not, in any way, be reflected on the salary of a medical transcriber/typist (wife of the director).

The question is as to whether Director Van Vangel can participate in the public hearing and voting at the meeting where the lease/purchase contract is made.

Scheduled meeting date is July 3, 1984 at 8:00 p.m. I appreciate the information you gave me over the phone this morning (Tuesday) and would appreciate an opinion to this question at your early convenience.

Yours truly,


JOHN T. HOURIGAN
Attorney for the District

JTH:mm

Dictated by the writer;
signed and mailed in his
absence to avoid delay.