

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

SUPERSEDED
BY A-98-239(Bennett)

October 15, 1984

Harold R. Densmore
City Attorney
City of Patterson
P.O. Box 51
Newman, CA 95360

Re: Advice Letter No. A-84-247

Dear Mr. Densmore:

Thank you for your request for additional advice on the conflict of interest provisions of the Political Reform Act.

QUESTION PRESENTED

If, under the provisions of the Political Reform Act, a city councilman must disqualify himself on a governmental decision, must the disqualification be accompanied by an announcement of the reason for the disqualification?

DISCUSSION

When a city councilman decides to abstain from participating in a decision because of his financial interests, the official's determination must be accompanied by the disclosure of the financial interest. This disclosure must be made part of the agency's official record. (2 Cal. Adm. Code Section 18700(b)(5).) It is sufficient for a city councilman to enter into the public record a statement that he is disqualifying himself on a decision because it is reasonably foreseeable that the decision will have a material financial effect on an "investment interest," "interest in real property," "source of income," or on a "business entity which he holds a business position."

ADVICE FILE SUMMARY SHEET

TYPE A STAFF Julia
 YEAR 99 ADVISEE Bennett
 NO. 239 REQUESTOR Lipsey
 DATE 10/29 AGENCY Redwood City

SUBJECT:

- | | | | |
|------------------------------------|--|--------------------------------------|---------------------------------------|
| <input type="checkbox"/> c/i | <input type="checkbox"/> c/i code | <input type="checkbox"/> honoraria | |
| <input type="checkbox"/> campaign | <input type="checkbox"/> lobbying | <input type="checkbox"/> § 84308 | <input type="checkbox"/> personal use |
| <input type="checkbox"/> sei | <input type="checkbox"/> revolving door | <input type="checkbox"/> gift limits | <input type="checkbox"/> misc |
| <input type="checkbox"/> mass mail | <input type="checkbox"/> co-sponsored events | <input type="checkbox"/> prop 208 | |

COMPUTER ENTRY SUMMARY: (no more than 5 typed lines for summary)

The executive director of a nonprofit has a conflict in decisions to grant funds to the nonprofit. The public generally exception applies to decisions affecting entities competing for the same funds. This letter also discusses the "nexus test."

CODE §§ AND REGULATIONS: 87100, § 7103, 18705 3, 18707 4

ADD

BULLETIN SUMMARY: (for more space, write on back)

Disclosure of interest prompting disqualification must be made with the same level of specificity at least equal to the disclosure listed on the official statement of economic interests

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low

SUPERSEDES: (Note if this advice letter supersedes others in whole or in part)

Hutton 85-043
Densmore 84-247

* Bulletin = Computer + Bulletin

Harold R. Densmore
October 15, 1984
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I hope that I have answered your question for you. If I can be of any additional help, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Staff Counsel
Legal Division

JSM:plh
Enclosure



City of Patterson

P. O. Box 667, Patterson, California 95363 (209) 892-2041



September 21, 1984

Ms. Janis Shank McLean
Counsel, Legal Division
Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95814

Dear Ms. McLean:

Re: Dr. Thomas Klein
Your Advice No. A-84-152

On August 15, 1984 you mailed to Dr. Klein your opinion in the above matter. One of the conclusions reached was that Dr. Klein must disqualify himself from any decision which would foreseeably have a material financial effect on the Medical Care Foundation or on the Dental Foundation, although you also concluded he could approve payments to the Medical Care Foundation as long as that act was purely ministerial.

It is my understanding that the part of the disqualification process is an announcement that the official is disqualifying himself or herself from a governmental decision because of a conflict of interest, the reason for the disqualification and the financial interest which may be affected by the decision. Dr. Klein has been abstaining from voting on approval of warrants to the Medical Care Foundation. However, he has not, so far as I am aware, announced his disqualification or the reasons for the disqualification or the financial interest which may be affected by the decision. If this is a strict compliance with the rules for disqualification and abstention, should it not be brought to his attention, and if this is so is it proper that your office do this as a follow up to your opinion of August 15, 1984, or should it be done through our office.

Thank you for your advice.

Yours very truly,

HAROLD R. DENSMORE,
City Attorney
P. O. Box 51
Newman, CA 95360

HRD:cc

cc: Henry G. Hesling, City Manager
cc: Mayor Pat D. Maisetti