

# 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

October 24, 1984

William T. Pachetti  
1131 La Homa Drive  
Napa, CA 94558

Re: Your Request for Advice  
Our No. A-84-250

Dear Mr. Pachetti:

You have written requesting our advice regarding the applicability of Government Code Sections 87400-87405 to your circumstances. Your letter recites the following facts as well as your question.

I have recently retired from the California State Fire Marshals Department and have been requested by several companies to represent them to the State Fire Marshal.

Within the State Fire Marshals Department, is program referred to as the Building Materials and Listing Program (Health and Safety Code Section 13144.1).

Over 10 years ago, I supervised the Listings program before I was reassigned as Staff Assistant to the Deputy Director Operations. At that time, the Listings program was under (and still is) the direction of another Deputy Director.

My question. Would I be in violation of 87400 if I represented firms desiring an approval and listing by the State Fire Marshal?

If necessary, I can obtain, from the Department Director, a statement that I had no control, influence or participated in the proceeding of the Listing Program for several years prior to my retirement.

### ANALYSIS

Sections 87400-87405 of the Government Code were enacted to prevent former state employees from leaving state service and

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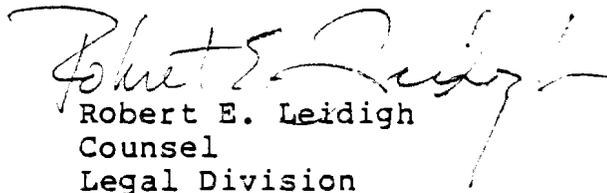
becoming employed for the purpose of representing (or assisting in representing) specific parties in proceedings involving the state. However, these prohibitions contained in these provisions are limited to involvement in the same "proceeding" (Section 87400(c)) in which the employee "participated" (Section 87400(d)) while in state service.

You desire to serve, for compensation (Section 87401), applicants who seek to have their products "listed" by the State Fire Marshal, your former employer. You would be making an appearance or otherwise communicating with the State Fire Marshal and the State of California is a party to the application proceeding. Thus, the requirements of Section 87401(a) and (b) are met. The only question left to be answered is whether you, as a state employee, "participated" in the same "proceeding."

The "listing" procedure specified in Health and Safety Code Sections 13144.1 through 13144.3, specifies that the "listing" of a particular product as being "approved" requires annual renewal by way of application. Thus, each year a new proceeding is begun.<sup>1/</sup> Under those circumstances, there would be no prohibition on your private employment in representing applicants as they make or renew applications since each new application would constitute a new proceeding.

Should you have any questions, I may be reached at (916) 322-5901.

Sincerely,

  
Robert E. Leidigh  
Counsel  
Legal Division

REL:plh

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<sup>1/</sup> My telephone conversation with Mr. Herm Schierenberg of the State Fire Marshal's Office confirms that this is the case and that each renewal application is re-evaluated.

OCT 5 11 16 AM '54

October 3, 1954

State of California  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804

Subject: Revolving Door Prohibition

Gentlemen:

Clarification is requested relating to Government Code Section 87600.

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WM. T. PAOCCHETTI  
1131 La Homa Dr.  
Napa, CA 94558