

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

November 6, 1984

Darlene E. Ruiz
Water Resources Control Board
901 P Street
Sacramento, CA 95814

Re: Advice Letter No. A-84-268

Dear Ms. Ruiz:

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

FACTS

On April 3, 1984, you began serving as a member of the Water Resources Control Board. As a board member, you will be considering the adoption of regulations dealing with underground tanks, including the underground tanks owned and operated by the oil industry. Your husband, John Hunter, was employed by Mobil Oil Company until January 13, 1984. His compensation included salary and stock in Mobil Oil Company. Mr. Hunter sold his stock to Mobil and relinquished all of his stock rights at the time that he terminated his employment. Mobil still owes him the money for the stock purchase.

QUESTION PRESENTED

Will the Political Reform Act require you to disqualify yourself from the decisions on the underground tank regulations?

CONCLUSION

The Political Reform Act will not require you to disqualify yourself on the decisions on the underground tank regulations.

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 she knows or has reason to know she has a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on:

(a) Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars (\$1,000)....

(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.

Thus, if Mobil Oil Company is a source of income to you, or if you have an investment in it, you must disqualify yourself from participating in the decisions on the underground tank regulations if they will foreseeably have a material affect on Mobil Oil Company.

(1) Source of Income;

Regulation 2 Cal. Adm. Code Section 18704 provides that the term "source of income," as used in Section 87103(c), does not include a former employer if all of the income received from the employer was received or accrued to the public official prior to the time she became a public official; the income was received in the normal course of previous employment; and there was no expectation by the public official at the time she assumed office of renewed employment with the former employer. Although 2 Cal. Adm. Code Section 18704 is drafted in terms of an official's former employer, it also applies to an official's spouse's former employer.

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

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In the present case, Mobil Oil Company has provided or will provide your spouse with three types of income: salary, stock and payment for the stock he has sold back to Mobil. The salary was received by him prior to the time that you became a public official. The stock was also received by him prior to that time. Even though the payment for the stock has not been received, your husband's right to the payment accrued prior to your becoming a public official. In addition, all of the income was received in the normal course of your spouse's employment and, at the time you assumed office, there was no expectation that your spouse would renew his employment with Mobil Oil Company. Therefore, Mobil Oil Company is not a source of income to you.

(2) Investment Interest:

Your husband sold his stock in Mobil Oil Company and relinquished all of his stock rights. Therefore, you do not have an investment interest in Mobil.

Because you do not have a financial interest in Mobil Oil Company, you will not be subject to disqualification on the decisions concerning the underground tank regulations. If I can be of any additional help to you, 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

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
901 P STREET
SACRAMENTO, CA 95814



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October 21, 1984

Ms. Barbara Milman, Chief Counsel
Fair Political Practices Commission
1100 K Street
P.O. Box 807
Sacramento, California 95804

Re: Advice Request

Dear Ms. Milman:

As a member of the State Water Resources Control Board (SWRCB) I am anticipating participation in the adoption of Subchapter 16 regulations. The proposed regulations deal with underground tanks including those underground tanks owned and operated by the oil industry. My question to the Commission concerns whether or not I as a board member must disqualify myself from the adoption of the regulations in light of the following facts:

I was married on May 29, 1982. At the time of marriage my spouse and I entered into an agreement, later memorialized in writing, in which our respective incomes were deemed to be separate property. A copy of said agreement is enclosed herewith. At the time of marriage until January 13, 1984 my spouse was employed by Mobil Corporation. His interest in Mobil accrued on or before January 13, 1984. I was appointed to the position of Board member on or about April 3, 1984. Therefore, my spouse has received income in excess of \$1,000. within the 12 months preceding the adoption of the Underground Tank Regulations.

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The schedule for adoption includes a hearing on October 23, 1984, a workshop on November 3, 1984 and adoption scheduled for November 27, 1984. Are the foregoing facts and this schedule sufficient for you to render an opinion as to whether I may participate in the proceedings and remain in full compliance with the letter and spirit of the Political Reform Act?

I look forward to your guidance and response.

Kindest personal regards,

A handwritten signature in cursive script, which appears to read "Darlene E. Ruiz".

Darlene E. Ruiz
Board Member