

# 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 • • Statements of Economic Interest  
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

April 2, 1985

Julie Castelli Nauman  
Deputy Director  
Department of Housing and Community  
Development  
921 10th Street  
Sacramento, CA 95814

Re: Your Request for Advice, Our  
File No. A-85-047

Dear Ms. Nauman:

Thank you for your letter requesting advice concerning your reporting requirements under the Political Reform Act.<sup>1/</sup> This letter confirms the advice I gave you by telephone on March 26, 1985.

### FACTS

You have stated that your husband is an attorney in private practice as a sole practitioner. During the past year he has represented several California limited partnerships. You have indicated that the general partners of some of the limited partnerships are the same individuals, although the limited partners in each limited partnership will generally be different people, and each limited partnership is a separate legal entity with its separate financial structure. Each limited partnership is billed separately for the legal services associated with that limited partnership. Each limited partnership will operate essentially the same type of business at a different location, as a franchisee with a common franchisor.

### QUESTIONS

For purposes of disclosure on your Statement of Economic Interests, may you consider income to your husband's law

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<sup>1/</sup> Government Code Section 81000-91015. All statutory references are to the Government Code unless otherwise specified.

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practice from the limited partnerships as income from separate clients?

In determining whether you are required to report the legal fees your husband received from a client, may you exclude amounts attributable to reimbursement for costs such as filing fees, title insurance, fees, investigator's fees, printing costs, or travel expenses?

#### CONCLUSIONS

For purposes of disclosure on your Statement of Economic Interests, you may not consider income to your husband's law practice from the limited partnerships as income from separate clients when the limited partnerships have the same general partners.

In determining whether you are required to report the legal fees your husband received from a client, you may exclude only the amounts attributable to costs billed to the client by your husband's law firm and passed on directly to another person or entity. You may not exclude amounts attributable to the law firm's general operating expenses, such as rent, salaries, or utility bills.

#### DISCUSSION

Section 87207(b) provides that when a public official is required to report income of a business entity, including income of a sole proprietorship, the public official's statement shall contain, among other things, the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000 during a calendar year.

Your question concerns the method of reporting income to your husband's law practice from limited partnerships. Initially, it is important to note that you are required to report only your community property share of your husband's income. Therefore, for purposes of determining whether the threshold is met with regard to your Statement of Economic Interests, your husband's law firm's gross receipts from a single client must equal or exceed \$20,000 in a calendar year.

You have indicated that some of your husband's limited partnership clients have the same general partners. When that is the case, you should consider the combined gross receipts from those limited partnerships as the gross receipts from one

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client, the general partners. Accordingly, if the combined gross receipts from each limited partnership with the same general partners equal or exceed \$20,000, you are required to include on Schedule H of your Statement of Economic Interests the names of those general partners.

Turning to your second questions, the general rule is that when income is required to be reported, income includes all payments received, whether or not any expenses were incurred. Section 82030. Thus, your statement must include the name of each client of your husband's law firm if the gross receipts from such client were equal to or greater than \$20,000. Section 87207(b) (3).

However, in its opinion to Scott T. Carey, 3 FPPC Opinions 99 (No. 76-087, Nov. 3, 1977), the Commission concluded that gross receipts of a brokerage firm included only the portion of the client's fee that was retained by the firm, and did not include the portion of the fee paid directly to the salesperson who brokered the sale. In contrast, the Commission concluded that the brokerage firm's general operating expenses were included in the firm's gross receipts.

Based on the Carey opinion, we conclude that the gross receipts of your husband's law firm do not include costs such as filing fees, title insurance fees, investigator's fees, or any other fees which are passed on directly by the law firm to another person or entity. However, the gross receipts of the law firm do include salaries and other general operating expenses of the law firm.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan  
Counsel

KED:nwm

February 22, 1985

FEB 20 9 37 AM '85

Ms. Barbara Milman, Chief  
Legal Division  
Fair Political Practices Commission  
1100 "K" Street, P.O. Box 807  
Sacramento, CA 95804

Dear Ms. Milman:

As a Deputy Director of the Department of Housing & Community Development, I am subject to the reporting requirements of the Political Reform Act of 1974. Attached is a copy of the Department's employee designation and disclosure categories.

My husband is an attorney with a private law practice in which he is the only member. During the last year, he has represented several California limited partnerships and I anticipate that he will remain involved in this area of law in the future. Because of the complexities and variations involved in these transactions, I am uncertain as to the applicability of the Act's reporting requirements to this business activity. I would appreciate your opinion as to my disclosure responsibilities with respect to the following situation.

My husband's legal representation will consist of preparing the organizational, offering, and subscription documentation of the limited partnerships; assisting in the formation of the limited partnerships, including the required filings and recordation of offering and formation documents; advising the partnerships in their business activities; and possibly other services. The general partners of some of the limited partnerships will be the same or substantially the same individuals. Generally, the limited partners in the various limited partnerships will be different; however, one or more limited partners in any one limited partnership may also become limited partners in one or more of the other limited partnerships.

Each of the limited partnerships will operate essentially the same type of business at different locations. Each will be separate legal entities, with their own separate financial structures and profit and loss distribution formulas. Each will be franchisees operating under the same or essentially the same franchise agreement with a common franchisor. The limited partnerships will be permitted, if they so desire, to jointly procure mutually needed supplies and services, but each will be responsible for its proportional share of the costs of the services or goods procured.

The respective limited partnerships will be billed separately for the legal services associated with that limited partnership, and the legal fees will be paid from the funds of the respective limited partnerships. It is expected that no one limited partnership will pay legal fees in any one reporting period in excess of \$10,000. However, cumulatively, it is expected that the limited partnerships will pay in excess of \$10,000.

With reference to the provisions of the Political Reform Act of 1974 which requires disclosure of the identities of clients paying fees in excess of \$10,000 in a reporting period, I would appreciate your opinion on the following question:

Will each limited partnership be considered a separate client, thus requiring disclosure only if any one of the limited partnerships pays fees in excess of the reporting threshold; or will the legal fees paid by the limited partnerships be aggregated, thus requiring disclosure if, cumulatively, the limited partnerships pay legal fees in excess of the reporting threshold?

On a related suspect, I would also appreciate your opinion on the following:

If a gross legal fee paid to my husband contains elements for both legal services rendered and reimbursement for costs advanced (i.e., filing fees, title insurance fees, investigator's fees, printing costs, travel expenses, etc.), may the portion of the gross fee paid which is attributable to reimbursement for costs be excluded when calculating whether the reporting threshold has been reached?

Thank you for your assistance with respect to the above questions.

Sincerely,



Julie Castelli Nauman

Attachment

DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT

6500. General Provisions

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department and Commission of Housing and Community Development.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of the Director, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

NOTE: Authority cited: Sections 87300 and ~~87304~~ Government Code.  
Reference: Sections 87300, ~~87304~~ - 87311, Government Code.

APPENDIX A - DESIGNATED POSITIONS

Persons in the following classes or positions are designated employees and shall make the types of disclosures set forth in the disclosure category listed opposite the position.

**DESIGNATED POSITIONS**

<u>CLASS OR POSITION</u>	<u>DISCLOSURE CATEGORY</u>
<u>COMMISSION</u>	
Commissioners, Assistant to the Commission.....	3-
<u>Administration-</u>	
<u>Directorate</u>	
Director; Deputy Directors; Second-Deputy Director; Special Assistants to the Director; <u>Special Consultants</u> ; General Counsel; all attorneys in Legal Office; Legislative Coordinator.....	1,2,3-
Accounting Officer III; Business Services Assistant; Staff Services Manager.....	2-
<u>Legal Office</u>	
Attorneys (all levels).....	<u>1</u>
<u>Administrative Division</u>	
Division Chief.....	<u>1</u>
Staff Services Managers (all levels); Data Processing Manager (all levels); Senior/Staff Programmer Analyst; Senior/Staff Data Processing Analyst; Senior Accounting Officer; Business Services Officer (all levels); Associate Governmental Program Analysts (Contracts Office); Staff Services Analyst (Contracts Office); Management Services Technician (Business Services); Special Consultants.....	<u>3</u>
<u>Research and Policy Division</u>	
Division Chief, Assistant Chief; Special Consultants.....	<u>1</u>
<u>Codes and Standards Division</u>	
Chief; Assistant Chiefs.....	1,2,3-
Senior Civil Engineer.....	2-
Engineering Plan Check Manager; Civil Engineers (all levels).....	<u>2,4</u>
Codes and Standards Administrator (all levels); District Representatives (all levels); Special Consultants; Codes and Standards Inspector I and II; Associate Civil Engineer; Special Consultants; Mobilehome Registration Manager; Mobilehome Registration Supervisor III; Mobilehome Registration Specialist.....	<u>3,4</u>

## APPENDIX B - DISCLOSURE CATEGORIES

Financial interests of employees holding positions designated in this section are to be reported in statements of economic interests as follows:

Designated Employees in Category 1 must report:

- a) All investments and any positions in any business entity;
- b) Any positions in any state or local government agency;
- c) All sources of income;
- d) All interests in real property (excluding one's primary personal residence).

Designated Employees in Category 2 must report:

- a) All investments, positions in, or sources of income from any entity of the type which has, in any manner, been affected by or subject to departmental regulations or policies in the last two years (excluding regulations or policies regarding building or energy standards).
- b) All investments, positions in or sources of income from any entity engaged in the design of, development or rehabilitation of, sale or purchase of, or investment in real property, manufactured or factory-built housing.
- c) All investments, positions in or sources of income from any entity engaged in the design, development, rehabilitation, or construction of public facilities.
- d) Any interest in real property (excluding one's primary personal residence) situated in any jurisdiction receiving or eligible for funding from or through the section to which the designated employee is assigned.
- e) Investments, business positions, or sources of income from any entity which is situated or doing business in any jurisdiction receiving or eligible for funding from or through the section to which the designated employee is assigned.

Community Affairs Division

Chief; Assistant Chiefs..... 1,2,3-  
 Housing and Community Development Representative I-and-II  
 (all levels); Housing and Community Development Specialist II;  
 Housing and Community Developer Finance Advisor;  
~~Native-American-Affairs-Coordinator~~; California Indian  
 Housing Representative (all levels); California Indian Housing Manager  
 (all levels); Housing and Community Development Managers  
 (all levels); ~~Associate-Economic-Development-Specialist~~;  
 Rural Loan Packaging Coordinator (all levels); Associate  
 Governmental Program Analyst; Housing Construction and  
 Rehabilitation Specialists; Supervision Housing  
 Construction and Rehabilitation Specialist.  
 Special Consultant..... 1,2  
~~Senior-Economic-Development-Specialist~~..... 1,2-

Century Freeway

Executive Project Director; Deputy Project Directors;  
 Special Assistants;..... 1  
 Housing and Community Development Representatives  
 (all levels); Managers (all levels);  
 Housing Construction and Rehabilitation Specialists.  
 (all levels); Special Consultants;  
 Architectural Associates; Staff Services Analyst;  
 Housing and Community Development Specialists II..... 2

NOTE: Authority Cited: Section 87300, Government Code  
Reference: Sections 87300-87311, Government Code