

# 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

April 26, 1985

Janice E. Kerr  
General Counsel  
Public Utilities Commission  
California State Building  
San Francisco, CA 94104

Re: Your Request for Advice on  
Behalf of Commissioner  
Priscilla Grew  
Our File No. A-85-077

Dear Ms. Kerr:

Thank you for your request for advice on behalf of Commissioner Grew of the California Public Utilities Commission ("CPUC") concerning her obligations under the financial disclosure and disqualification provisions of the Political Reform Act.<sup>1/</sup> Your questions involve certain investments in business entities held by blind trusts for the benefit of Commissioner Grew. In this letter, I will address only your general questions concerning blind trusts. I have had several discussions with Diane Fellman of your staff regarding the potential for disqualification in specific CPUC decisions affecting small power producers based on Commissioner Grew's investment in the Merck Corporation. I advised Ms. Fellman that without more information I could not provide specific advice; however, I also explained that disqualification is only required when it is reasonably foreseeable that the decision will have a material financial effect on Merck Corporation.<sup>2/</sup> Section

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<sup>1/</sup> The Political Reform Act is contained in Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise stated.

<sup>2/</sup> Ms. Fellman and I agreed that small power producers do not constitute the "public generally" or a significant segment thereof. Section 87103; 2 Cal. Adm. Code Section 18703.

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87103. It is my understanding that we will be provided with additional information and questions on pending CPUC decisions involving small power producers.

DISCUSSION

When Commissioner Grew took office, she placed her investments in three blind trusts pursuant to Commission Regulation, 2 Cal. Adm. Code Section 18235. At that time, she also disposed of all investments in business entities which were regulated by the CPUC. Under the terms of Regulation 18235, Commissioner Grew is required to disclose all of her investments held in the blind trusts of which she has actual knowledge. This includes all of the original assets of the trusts. When an investment or asset in one of the trusts is disposed of by the trustee, the trustee is required to notify her, but the trustee is prohibited from disclosing to her any information concerning the replacement assets or investments. It appears that Commissioner Grew has complied with the terms of Regulation 18235 in all respects. Accordingly, with respect to any of the replacement assets or investments, she is not obligated to disclose them nor to disqualify. In addition, with respect to the investments in business entities which have been completely disposed of by the trustee, she no longer has an obligation to disclose these investment nor to disqualify herself from CPUC decisions which could materially affect those business entities.

I trust that the foregoing discussion will be helpful to you.

Sincerely,



Diane Maura Fishburn  
Staff Counsel  
Legal Division

DMF:plh



ADDRESS ALL COMMUNICATIONS  
TO THE COMMISSION  
CALIFORNIA STATE BUILDING  
SAN FRANCISCO, CALIFORNIA 94102  
TELEPHONE: (415) 557- 0336

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**Public Utilities Commission**  
STATE OF CALIFORNIA

FILE NO.

March 26, 1985

Barbara Milman  
General Counsel  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804

Re: Priscilla Grew's Blind Trust Holdings

Dear Ms. Milman:

Per conversations with Diane Fishburn of your staff, a question has recently arisen regarding the blind trust holdings of Commissioner Priscilla Grew with respect to California Public Utilities Commission (CPUC) regulation. Due to the disposal of certain assets in one of her trusts and the changed status of another, I am requesting an informal advice letter on the following two issues:

Whether the Commissioner's current disqualification from certain small power producer related issues based on a potential conflict of interest with two blind trust holdings is removed when a) the trustee disposes of all of one company's original assets and b) the other company is under a contract no longer affected by specific Commission decisions relating to small power producers?

FACTS: Upon assuming office at the California Public Utilities Commission (CPUC), Priscilla Grew created three blind trusts under the provisions of 2 Cal. Admin. Section 18235. During that process, she disposed of all assets which were in fact or believed to be subject to Commission regulation. In a meeting on March 18, 1981, Robert Stern, then General Counsel of the FPPC, approved the steps which Commissioner Grew had taken to establish the three blind trusts as sufficient to meet the requirements of 2 Cal. Admin. Section 18235. Subsequent to that time, Commissioner Grew became aware of certain original assets which were a potential conflict with decisions relating to small power producers. She elected to disqualify herself

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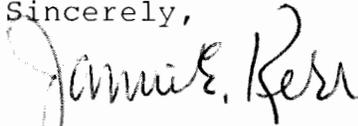
from matters relating to these entities. However, two recent developments raise the questions of whether this disqualification is necessary.

a) As part of filing her annual statement, Commissioner Grew learned that during 1984 the trustee had disposed of all of the original assets in Caterpillar Corporation which had interests in small power producers. Since she had no control over the removal of these assets from the trust but does have the knowledge that they are gone, the potential conflict appears to be removed with regard to this company.

b) The second holding in this category, Merck Corporation, has a division, KELCO, which has signed a contract for a cogeneration facility with San Diego Gas and Electric Company (SDG&E). This contract will not be affected by additional Commission action regarding small power producers. Due to the terms of the contract, the only impact will be from changes occurring in Incremental Energy Rates (IERS) during SDG&E rate proceedings which affect the prices paid by the utility to KELCO. But, as Diane Maura Fishburn of the FPPC staff determined in her advice letters of April 30 and May 13, 1982, these decisions affect ratepayers generally and thus do not appear to have a material financial affect on KELCO specifically.

To facilitate Commission planning and to inform her of your advice prior to the next scheduled Commission action on this matter, we respectfully request an informal advice letter by April 15, 1985. Diane Fellman of my staff is available to answer any questions you have regarding these two issues. Thank you for your prompt consideration of this matter.

Sincerely,



Janice E. Kerr  
General Counsel

# 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 1, 1985

Janice E. Kerr  
General Counsel  
Public Utilities Commission  
California State Building  
San Francisco, CA 94102

Re: A-85-077

Dear Ms. Kerr:

Your letter requesting advice under the Political Reform Act has been referred to Diane Maura Fishburn, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

  
Barbara A. Milman  
General Counsel

BAM:plh