

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

August 8, 1985

Howard E. Varner, Chairman
California State Lottery Commission
1303 J Street, Suite 600
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-85-173

Dear Mr. Varner:

~~Chairman Stanford has asked that I respond to your letter~~
of July 30, requesting the Commission's advice as to possible
disqualification requirements under the conflict of interest
provisions of the Political Reform Act (the "Act").^{1/} You
have succinctly stated the facts and your question as follows:

FACTS

On January 29, 1985, Governor George Deukmejian
appointed me to the California State Lottery
Commission. I have since served on this Commission
and was elected Chairman of the Commission.

At the time I was asked to consider an appointment
to the Commission, I filed with the Governor's office
a very detailed disclosure statement which included,
among other things, my financial holdings. Included
in my financial holdings were 1,757 shares of common
stock of the Hollywood Park Operating Company which
owns and operates the Hollywood Park Racetrack, and
1,257 shares of Marriott Corporation common stock.

^{1/} Government Code Sections 81000-91015. All statutory
references are to the Government Code. The scope of our advice
is limited to the Act's provisions and applies to only future
conduct. You may wish to seek separate advice from the Attorney
General's Office regarding Sections 1090, et seq., or under
Sections 8920, et seq., or the provisions of the Lottery
Initiative which established your Commission.

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My holdings in Hollywood Park Operating Company date back to 1977 at which time I purchased 100 shares. Since that time, I acquired an additional 1,000 shares and, due to stock dividends and splits, the total is now 1,757 shares. At today's market price of 23-1/2, this represents a market value of \$41,289.50. The Marriott stock was acquired in 1984 through a stock option, and at today's quote of 97-1/2, represents a market value of \$121,875.

It is my understanding that both Hollywood Park Racetrack and the Marriott Corporation, through its wholly-owned subsidiary Host International, Inc., have applied for a retail license to sell lottery tickets in California. Other than the stock ownership of Hollywood Park, I have no interest in the operation or management of this company. In the case of Marriott, I am Chairman of the Board of Host International, Inc. (a wholly-owned subsidiary). However, I do not receive compensation for this position, nor am I active in the management or policy-making decisions.

Of course, should any specific matter concerning either the Hollywood Park Operating Company or the Marriott Corporation come before the Commission for consideration, I would expect to withdraw and take no part in the consideration of that matter.

QUESTION

There has been a question raised as to whether or not my holdings as indicated above represent a conflict of interest insofar as the California State Lottery is concerned. The Commission has established the policy and procedures by which retail licenses will be considered and issued. However, the actual decision of who will receive licenses is the responsibility of the Director and his staff.... I would appreciate your advice in writing as to whether or not the above-mentioned holdings represent a conflict of interest.

CONCLUSION

The fact that you have economic interests in Hollywood Park and in Marriott Corporation does not constitute a conflict of interest with your position as Chairman of the Lottery Commission and certainly does not prevent you from serving as Chairman of the Commission. However, as you correctly point out in your letter, you may have to disqualify yourself from

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participating in any Commission decisions affecting Hollywood Park or Marriott Corporation or its wholly-owned subsidiary, Host International.

ANALYSIS

Under the Act, an official is required to disqualify him or herself from making, participating in making or using his or her official position to influence a governmental decision in which he or she has a financial interest. Section 87100. An official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from its effect upon the public generally on:

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

* * *

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

* * *

Section 87103.

You have an investment of \$1,000 or more in both Hollywood Park and Marriott. You also hold a position of management, etc., with Marriott as Chairman of the Board of Host International. Consequently, you must disqualify yourself from any participation in decisions which will have a reasonably foreseeable material financial effect upon either Hollywood Park or Marriott or Host International. You recognize this fact and have stated that, should any such decisions arise, you will do so. The Political Reform Act requires disqualification only on a decision-by-decision basis; it does not establish a bar to holding office or to contractual relationships.^{2/} However, disqualification relates to all forms of participation and not simply to voting. Thus, you may not act in any way to influence

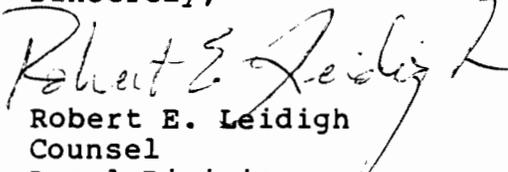
^{2/} Sections 1090, et seq., do bar certain types of contractual relationships. If the Commission is considering entering into any type of contractual relationship with Hollywood Park or Host International, you may wish to consult with the Attorney General's Office.

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the staff or other Board members in any of their decisions which will affect Hollywood Park or Marriott or Host International. Therefore, so long as you do not participate in any decisions involving the companies in which you have an interest, the fact that you have these investments will result in no other restrictions under the Political Reform Act on your ability to serve as the Chairman of the Lottery Commission.

Should you have any questions regarding this advice, please do not hesitate to contact me at (916) 322-5901.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:plh

CALIFORNIA STATE LOTTERY COMMISSION

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July 30, 1985

Mr. Dan Stanford
Fair Political Practices Commission
State of California
P. O. Box 807
Sacramento, California 95804

Dear Mr. Stanford:

On January 29, 1985, Governor George Deukmejian appointed me to the California State Lottery Commission. I have since served on this Commission and was elected Chairman of the Commission.

At the time I was asked to consider an appointment to the Commission, I filed with the Governor's office a very detailed disclosure statement which included, among other things, my financial holdings. Included in my financial holdings were 1,757 shares of common stock of the Hollywood Park Operating Company which owns and operates the Hollywood Park Racetrack, and 1,256 shares of Marriott Corporation common stock.

My holdings in Hollywood Park Operating Company date back to 1977 at which time I purchased 100 shares. Since that time, I acquired an additional 1,000 shares and, due to stock dividends and splits, the total is now 1,757 shares. At today's market price of 23½, this represents a market value of \$41,289.50. The Marriott stock was acquired in 1984 through a stock option, and at today's quote of 97½, represents a market value of \$121,875.

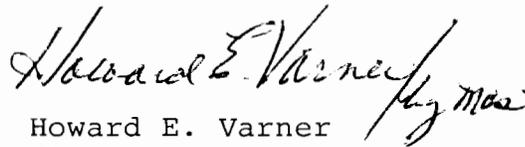
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July 30, 1985
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There has been a question raised as to whether or not my holdings as indicated above represent a conflict of interest insofar as the California State Lottery is concerned. The Commission has established the policy and procedures by which retail licenses will be considered and issued. However, the actual decision of who will receive licenses is the responsibility of the Director and his staff. The Senate Committee has established August 28, 1985, as the date of my confirmation hearing, and I would appreciate your advice in writing as to whether or not the above-mentioned holdings represent a conflict of interest.

Sincerely,


Howard E. Varner
Chairman

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