



# California Fair Political Practices Commission

May 12, 1986

Osborn Christon  
7708 Chaparral Way  
Fair Oaks, Ca 95628

Re: Your Request for Advice  
Our File No. A-86-119

Dear Mr. Christon:

Thank you for your letter requesting advice concerning your duties under the conflict of interest provisions of the Political Reform Act.<sup>1/</sup> In your letter you provided the following facts.

## FACTS

You are the manager of the Field Services Section of the Child Nutrition and Food Distribution Division of the California State Department of Education. The Child Nutrition and Food Distribution Division is responsible for the management of child nutrition programs in schools, child care centers, and residential child care institutions in California. Under the child nutrition programs, eligible children in these institutions receive free or reduced-cost nutritionally adequate meals.

The Field Services Section is responsible for compliance monitoring and program assistance to school food authorities and administrators. You have regular contact with school superintendents, business managers, and food service directors regarding the applicable performance standards, pupil eligibility criteria, meal requirements, and other technical aspects of child nutrition programs. These school superintendents, business managers, and food service directors work directly with food processors and vendors who provide food

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

and services in connection with the child nutrition programs. The food processors and vendors rarely have contact with employees in the Child Nutrition and Food Distribution Division.

You have stated that you intend to pursue, on a limited, part-time basis, a business enterprise consisting of raising crawfish in Louisiana and marketing the crawfish in California. It is possible that, in marketing the crawfish, you would have business dealings with some of the food processors and vendors that service school districts, child care centers, and residential child care institutions in connection with the child nutrition programs. However, your business dealings with food processors and vendors would not concern the child nutrition programs because crawfish are too expensive to be served in the child nutrition programs.

#### QUESTION

Do your proposed business activities present any conflict of interest problems under the Political Reform Act?

#### CONCLUSION

Under the facts presented, your proposed business activities do not present any conflict of interest problems under the Political Reform Act.

#### ANALYSIS

Section 87100 prohibits any public official at any level of state or local government from making, participating in, or using his official position to influence a governmental decision in which the official knows or has reason to know he has a financial interest. A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of his immediate family, or on any of the following interests:

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

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, 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.

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

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts 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(a)-(e).

Once you commence the enterprise of raising and marketing crawfish, you will have an investment in a business entity. See Section 82005. In addition, if you have a 10-percent or greater ownership interest in the business entity, customers of the business entity, such as food processors and vendors, would be considered sources of income to you, based on your pro rata share of the gross receipts from those customers. Section 82030(a). Thus, you would have the potential for a conflict of interest based on Section 87103(a) and (c). However, the Political Reform Act does not prohibit you from holding financial interests which may create a conflict of interest. Rather, the Act requires you to disqualify yourself from participating in governmental decisions when a conflict of interest exists. Therefore, it is necessary to determine whether, as manager of the Field Services Division, you make or participate in any decisions which could foreseeably have a material financial effect on either your proposed crawfish business or the customers of that business.

As a general rule, you are required to examine each decision in which you participate as Manager of the Field Service Section to ascertain whether or not it is foreseeable that the decision would have a significant effect on the revenues or expenses of either your business or the food

Osborn Christon  
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processors and vendors with whom you do business.<sup>2/</sup> You have indicated that, as manager of the Field Services Division, you are involved in compliance monitoring and assistance to school districts and other institutions participating in the child nutrition programs. Your duties concern the technical aspects of the child nutrition programs rather than food purchasing decisions. You have also stated that your crawfish business would not include marketing crawfish for use in child nutrition programs. Based on these facts, we conclude that it is unlikely that you would be faced with decisions which would require disqualification.

I trust this general advice answers your concerns. If, in the future, you would like to discuss a specific situation, please me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh  
Enclosure

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<sup>2/</sup> The Commission has adopted regulations which contain monetary guidelines concerning whether the effect of a decision on a business entity will be considered material. Please refer to the enclosed copy of 2 Cal. Adm. Code Section 18702.2.

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7708 Chaparral Way  
Fair Oaks, California 95628  
April 8, 1986

Mrs Kathy Donovan  
Staff Attorney, Legal Division  
Law Political Practice Commission  
Post Office Box 807  
Sacramento, California 95804

Dear Ms. Donovan:

Thank you very much for the guidance given on the phone the other day.

I am employed by the California State Department of Education, Child Nutrition and Food Distribution Division. This division is responsible for the management of Child Nutrition programs in Schools, Child Care Centers and Residential Child Care institutions in California.

My responsibility in the Management of these Child Nutrition programs is the Field Services Section. The Field Services Section is responsible for Compliance monitoring and Program Assistance to School Food Authorities and Administrators represented by Superintendents, Business Managers and Food Service directors. It is very rare, that those food processors and vendors, that work with schools have any contact with the office and in particular my section.

I intend to pursue, on a limited-part-time basis the

Marketing of Crawfish in California. The Crawfish will be raised in the State of Louisiana. It is possible that it might come in contact with some of the Food processors and Vendors that service school districts. Because of the cost of Crawfish, they will never be served in the Child Nutrition programs.

I Certify that at no time will the Department of Education office, time, phone and equipment be used in this limited part time venture.

As we discussed on the phone, please Certify in writing that this limited-part-time venture, in no way conflict with duties and responsibilities with the California State Department of Education.

If you need any additional information or discussion, please call me at (916) 323-2987

Sincerely,  
Osborn J. Chuston



California  
Fair Political  
Practices Commission

April 17, 1986

Osborn Christon  
7708 Chaparral Way  
Fair Oaks, CA 95628

Re: 86-119

Dear Mr. Christon:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me 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,

A handwritten signature in cursive script, appearing to read "Kathryn E. Donovan".

Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh