



California Fair Political Practices Commission

January 14, 1987

Alice E. DeLong
Redondo Beach City Treasurer
813 So. Catalina, Apt. D
Redondo Beach, CA 90277

Re: Your Request for Advice
Our File No. I-86-308

Dear Ms. DeLong:

You have requested advice regarding your duties under the conflict of interest provisions of the Political Reform Act (the "Act").^{1/} Your letter states only a general question and does not mention any specific decision currently pending. Therefore, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

QUESTION

Are you required to disqualify yourself from participation in decisions involving whether the City of Redondo Beach will engage in financial transactions with a bank which has extended a line of credit to a business owned by your family?

CONCLUSION

Based on the facts provided, you are not required to disqualify yourself from participation in these decisions.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

FACTS

You have been the Redondo Beach City Treasurer for the last eleven years. You and your husband are officers and stockholders in a family business located in the adjoining City of Torrance. Until recently, your brother ran the business. After your brother's death, your husband has taken a more active role in running the business.

The family business does its banking business with a bank which, until recently, did not have branches in Redondo Beach or the surrounding area. Due to a merger, the bank now has branches in Redondo Beach.

The City of Redondo Beach has not done business with the bank in the past. Now that the bank has branches in the city, you anticipate that the bank may seek to do business with the city in the future.

You and your husband own more than ten percent of the stock of the family business. You have received loans from the bank in the form of a line of credit. Sometimes the line of credit is borrowed against, and sometimes it is not. The line of credit is secured by the company's assets and accounts. Loans made to the company are made on the same terms as loans made to other companies in the same type of business.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or attempting to influence a governmental decision in which he knows or has reason to know he has a financial interest. A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family or on, among other things:

(a) Any business entity in which the public official has a direct or indirect investment 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.

Section 87103(a), (c), (d).

The Act defines income to include loans and forgiveness of indebtedness. (Section 82030.) It also provides that an individual's income includes a pro rata share of income to any business entity in which the individual or spouse owns a ten percent interest or greater. (Id.) Since you and your husband own ten percent or more of the family business, a pro rata share of the business' income is attributable to you as income. This would include income in the form of loans.

If an official receives income from one source which equals two hundred fifty dollars (\$250) or more within 12 months prior to the time when a decision is to be made, the official must consider the effect of the decision on the source of income to determine if disqualification is required. This income would include loans unless a loan is made "by a commercial lending institution in the regular course of business on terms available to the public without regard to official status." (Section 87103(c).)

You have indicated that the loans received by the family business from the bank are made on the same terms as loans made to other companies in the same type of business. Under these circumstances, the loans appear to have been made in the regular course of business on terms available to the public without regard to official status. (Section 87103(c).) Therefore, income from the loans is excluded from the calculation required by Section 87103(c), and the bank is not a disqualifying source of income as a result of the loans accepted by the family business.

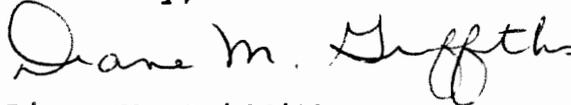
You have not indicated that the bank is a source of any other income to the family business, nor have you provided us with any facts which indicate that the family business itself will be affected in a material and foreseeable manner by business transactions between the city and the bank. Absent such facts, we conclude that you are not required to disqualify yourself from participation in decisions concerning whether the city will engage in financial transactions with the bank. Our conclusion could change if the bank is a source of other income

Alice E. DeLong
January 14, 1987
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to the family business, or if there is reason to believe that the family business itself will be affected either positively or negatively by a particular decision. We advise you to contact us with the specific facts of a particular pending decision prior to your participation if you have any question concerning these issues.

If you have any questions, I may be reached at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script that reads "Diane M. Griffiths". The signature is written in dark ink and is positioned above the typed name and title.

Diane M. Griffiths
General Counsel

DMG:sm
Enclosure

OFFICE OF
ALICE E. DeLONG
CITY TREASURER



TELEPHONE
(213) 372-1171
EXT. 230,206

CITY OF REDONDO BEACH CALIFORNIA

415 DIAMOND STREET
P.O. BOX 270
REDONDO BEACH, CA 90277-0270

November 7, 1986

NOV 10 10 58 AM '86

Fair Political Practices
P. O. Box 807
Sacramento, California 95804

Attention: Ms. Diane Griffth

Dear Ms. Griffth,

I have been Treasurer for the last eleven years.

Prior to my time in office I was associated with a family business. The business was run by my brother. My husband & I are both officers & stockholders along with other members of my family.

Due to the death of my brother, my husband has become active in the company. The company is very small with customers outside the area. The company several years ago moved from outside the area to the adjacent city of Torrance. The company owns the building.

I have always listed the company on my conflict of interest statements.

The company has banking relations with a Bank that was formerly out of the area. Due to a recent bank merger, the bank now has branches within the City.

Whereas the City has never invested with the subject bank, the possibility exists now that the bank would like to do business with the City. What should be my position so as no improprieties exist because of the merger.

I would appreciate your advice as soon as possible. Please send the opinion to 813 So. Catalina, Apt. D, Redondo Beach, Calif. 90277.

If you need any additional information please call me at the above number.

Yours truly,


Alice E. DeLong



DEC 10 5 20 AM '86

CITY OF REDONDO BEACH
CALIFORNIA

415 DIAMOND STREET
P.O. BOX 270
REDONDO BEACH, CA 90277-0270

December 8, 1986

California Fair Political Practices
P. O. Box 807
Sacramento, California 95804-0807

Attn: Daine M. Griffiths, General Counsel

Subject: Advice Request No. 86-308

Dear Ms. Griffiths,

Thank you for your response to my original letter for advice.
Answers to your questions are as follows:

1. Yes, we do own in excess of 10% of the stock in subject corporation.
2. Yes, we have received loans from subject bank. The corporation has a line of credit. Sometimes the line is borrowed against, sometimes not. The line of credit is given on the assets and ratios of the company. Any loan made to the company would be the same as any other company in that type of business. So my answer would be yes, to the question of whether terms would be available to the general public.

Our policy at the City of Redondo Beach, has been to receive various competitive rates on several banks when placing available investment funds. I would not want to exclude anyone if there interest rates were higher than the quoted rates. This is the main reason for my asking for the opinion. As their rates usually are not competitive it looks like I wouldn't have the problem anyway, but just in case.

Thank you for your help. If you need any other question answered please call. I would appreciate if you could send the answer to my home. (813 So. Catlina Apt D., Redondo Beach, 90277)

Sincerely,

Alice E. DeLong, Treasurer



California Fair Political Practices Commission

December 1, 1986

Alice E. DeLong
City Treasurer
415 Diamond Street
P.O. Box 270
Redondo Beach, CA 90277

Re: Advice Request No. 86-308

Dear Ms. DeLong:

In order to provide the advice you have requested, additional facts are needed. You may expect a response within 21 working days after we receive the answers to these questions (unless additional information is required):

1. Do you and your husband own 10% or more of the family business?
2. Has the family business received any loans from the bank you discuss in your November 7 letter? If so, was the loan or loans made in the ordinary course of business on terms available to the general public? If not, what is the amount of each such loan and its purpose?

I must obtain the answers to these questions in writing in order to provide formal written advice to you. If I do not receive the answers within 21 days, I will consider your request to have been withdrawn.

If you have any questions, please feel free to call me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh



California Fair Political Practices Commission

November 14, 1986

Alice E. DeLong
City of Redondo Beach
P.O. Box 270
Redondo Beach, CA 90277-0270

Re: 86-308

Dear Ms. DeLong:

Your letter requesting advice under the Political Reform Act was received on November 10, 1986 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 more information is needed, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh