



California Fair Political Practices Commission

December 12, 1986

The Honorable Phillip Isenberg
Member of the Assembly
State Capitol, Room 2175
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. I-86-309

Dear Assemblyman Isenberg:

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 concerning conflict issues raised by your wife's employment and does not mention any specific decision currently pending. Therefore, we consider your letter a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).

QUESTIONS

1. Does your wife's employment require you to disqualify yourself from participation in any governmental decisions?
2. What reporting duties are required by your wife's employment?

CONCLUSIONS

1. You are not required to disqualify yourself unless the decision will affect your wife's employer in a manner different than it will affect others in the same trade.
2. You must report income received from Riverwest on your annual statement of economic interests.

^{1/} Government Code Section 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.

FACTS

You are a member of the California State Assembly. Your wife is now employed as the comptroller of Riverwest Development Company, a real estate management and development firm in Sacramento.

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. Section 87100 applies to state legislators, who are public officials within the meaning of Section 87100.^{2/} (Sections 82048, 82049.)

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:

(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.

Section 87103(c).

Riverwest is considered a source of income to you, based on your community property interest in your wife's income. (Section 82030.) If your wife's income from Riverwest is \$500, your community property share would be \$250. Presumably, you will receive \$250 or more in income from this source in a 12-month period. Therefore, if a particular decision would have a foreseeable material financial effect on Riverwest, distinguishable from its effect on the public generally, you are required to disqualify yourself from participating in the decision. Disqualification would be required even if you would not personally benefit from the transaction.

^{2/} However, the remedies provided in the Act for violations of Section 87100 are not applicable to elected state officers, including state legislators. (Section 87102.)

Regulation 18703 provides that a material financial effect on an official's interest is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public. In the case of an elected state officer, an industry, trade or profession constitutes a significant segment of the public generally. (Regulation 18703(a).)

The particular facts of each decision you face will be determinative of the disqualification issue. However, you are not likely to be required to disqualify yourself unless the particular decision you face will affect Riverwest differently than others in the same trade.

You have also asked for advice on your reporting obligations regarding your wife's new employment. As you know, you must file annual statements of economic interests disclosing income received during the period since your previous statement was filed. (Section 87203.) The definition of "income" includes a community property interest in salary and various other payments received by the filer's spouse. (Section 82030.) Your annual statement must, therefore, contain the name and address of Riverwest, which is the source of income to you, a general description of its business activity, and a description of the consideration, if any, for which the income was received. (Section 87207(a)(1),(3).)^{3/} It must also include:

A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least two hundred fifty dollars (\$250) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), or whether it was greater than ten thousand dollars (\$10,000).

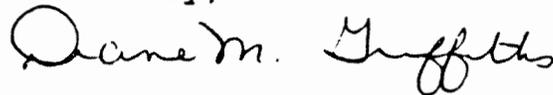
Section 87207(a)(2).

^{3/} This discussion assumes, as noted earlier, that Riverwest is a source of \$250 or more in income to you.

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Your letter does not discuss any payments other than salary that may be made by Riverwest to your wife, nor does it mention any investment you or your wife may own in Riverwest. Therefore, I have not analyzed the effect of such payments or investments on your disqualification or reporting duties under the Act. If you have any questions concerning other payments or investments or concerning this letter, you may contact me 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.

Diane M. Griffiths
General Counsel

DMG:sm
Enclosures

California Legislature

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ASSEMBLYMAN
 STATE CAPITOL, SACRAMENTO 95814
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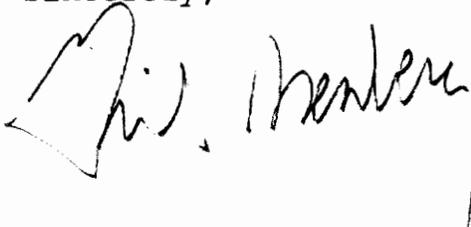
Ms. Diane Griffiths, Chief
Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Dear Ms. Griffiths:

My wife is now employed as the comptroller of Riverwest Development Co., a real estate management and development firm here in Sacramento.

I am writing to inquire whether this employment poses any conflict-of-interest or other legal difficulties for me. Also, what specific reporting or other activity should I employ to avoid any potential conflict?

Sincerely,



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