



California Fair Political Practices Commission

September 1, 1987

The Honorable Alfred Alquist
Member of the Senate
State Capitol, Room 5100
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-87-227

Dear Senator Alquist:

You have requested advice under the conflict of interest disclosure provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Are you required to disclose on your statement of economic interests investments held by a trust which you establish for the benefit of your grandchildren?

CONCLUSION

You have no obligation to disclose investments held in a trust for the benefit of your grandchildren unless you have a direct, indirect or beneficial interest in the trust.

ANALYSIS

You are an officeholder who is required to file an annual statement of economic interests disclosing your investments, interests in real property and income held or received during each calendar year. (Sections 87200, 87203.) An investment for disclosure purposes "...includes a pro rata share of investments in any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater." (Section 82034, emphasis added.)

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. 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.

Investments held by a trust for the benefit of your grandchildren are not reportable by you on your statement of economic interests if the trust meets two conditions. First, the investments may not be held by you or your immediate family. Only a filer's spouse and dependent children are "immediate family" for reporting purposes. (Section 82029.) Therefore, investments held by relatives who are not members of your immediate family are not reportable on your statement of economic interests.

The second condition is that, as the maker of the trust, you and your immediate family do not have a direct, indirect or beneficial interest in the investments of the trust. Regulation 18234 (copy enclosed) provides in relevant part that:

... the filer has a direct, indirect or beneficial interest if the filer is:

(1) A maker and:

- (A) Can revoke or terminate the trust;
- (B) Has retained or reserved any rights to the income or principal of the trust or retained reversionary or remainder interests; or
- (C) Has retained or reserved any power of appointment, including but not limited to the power to amend, alter or designate, either alone or in conjunction with anyone else, the person or persons who shall possess or enjoy the property or income therefrom.

Consequently, if you establish a trust for the benefit of your grandchildren and if you do not retain any direct, indirect or beneficial interest in the investments held by the trust, then you have no obligation to report the investments held by the trust on your statement of economic interests.

Please note that if you received income of \$250 or more per year from a position as trustee, even if you do not have a beneficial interest in the trust, then you would be required to report that income on your statement of economic interests. (Section 82030, Regulation 18234.)

You have asked for advice on the reporting provisions of the Act. We have addressed your question, but we have not discussed the Act's disqualification provisions. If you have any questions concerning possible conflicts of interests, please feel free to contact us regarding the matter.

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If you have any questions regarding the advice in this letter,
please feel free to call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

Bruce W. Robeck

By: Bruce Robeck
Political Reform Consultant

GB:BR:lm
cc: Chairman John Larson

Memorandum

To : Diane Griffiths, General Counsel

Date : August 13, 1987

From : FAIR POLITICAL PRACTICES COMMISSION

John H. Larson, Chairman *JHL*

Subject : Senator Alfred Alquist

Senator Alquist called today seeking advice on the following factual situation: He desires to create a trust for his grandchildren's future education. He will purchase and place into the trust certain stock. In particular, he mentioned Pacific Gas and Electric stock. He states that the trust is not revocable. That is to say, once stock has been placed in the trust, he cannot retrieve it. Although, stocks may be bought and sold for the benefit of the trust.

There will be stock of various corporations. He mentioned PG & E only because it is a stock of a California corporation and might be effected by votes that he would make as a member of the Senate.

His question is whether or not that trust is an investment which must be reported on his statement of economic interests.

I indicated to him that we would respond to him in writing. If further facts are necessary, please let me know and I will call him.

cc: Jeanne Pritchard